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THE

PUBLIC GENERAL STATUTES,

36 & 37 VICTORIÆ, 1873.

THE IMPORTANT STATUTES ONLY ARE SET OUT AT LENGTH.

LONDON:
12, COOK'S COURT, CAREY STREET, W.C.

1873.

THE GENERAL STATUTES

OF THE

IN THE

PUBLIC GENERAL STATUTES, 1873.

36 & 37 VICTORIÆ.

[THE IMPORTANT STATUTES ONLY ARE SET OUT AT LENGTH.]

CAP. I.

An Act for legalizing certain Marriages solemnized in Cove Chapel in Pitt Portion in the parish of Tiverton, Devon. [13th March, 1873.]

CAP. II.

An Act to make special provisions in relation to the Constitution of certain Polling Districts at Parliamentary Elections in Ireland. [13th March, 1873.]

CAP. III.

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending the thirty-first day of March, one thousand eight hundred and seventy-two, one thousand eight hundred and seventy-three, and one thousand eight hundred and seventy-four. [29th March, 1873.]

CAP. IV.

An Act to confirm an Agreement for a Lease by the Commissioners of Her Majesty's Works and Public Buildings to the Governors and Proprietors of King's College, London, of a piece of land on the Victoria Embankment annexed to Somerset House, and to give the said Commissioners further powers of leasing the said piece of land. [29th March, 1873.]

CAP. V.

An Act to extend the time for the Epping Forest Commissioners to make their final Report. [29th March, 1873.]

CAP. VI.

An Act to enable Her Majesty by Order in Council to annex the Turks and Caicos Islands to the Colony of Jamaica. [4th April, 1873.]

CAP. VII.

An Act to enlarge the time within which an Address by either House of Parliament against certain Schemes made under the Endowed Schools Act, 1869, may be presented to Her Majesty. [4th April, 1873.]

CAP. VIII.

An Act to make provision for the Assessment of Income Tax and as to Assessors in the Metropolis. [4th April, 1873.]

CAP. IX.

An Act to amend the Bastardy Laws. [24th April, 1873.]

Whereas an Act was passed in the thirty-fifth and thirty-sixth years of the reign of Her Majesty, chapter sixty-five, intituled "The Bastardy Laws Amendment Act, 1872:"

And whereas it is expedient to amend the said recited Act:

Be it enacted, &c., as follows:

1. *Short title.*] This Act may be cited as "The Bastardy Laws Amendment Act, 1873."

2. *Repeal of sections 6 and 8 of recited Act and Second Schedule thereto.*] The sixth and eighth sections of the said recited Act and the Second Schedule thereto are hereby repealed, except as to anything heretofore duly done thereunder, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken before the passing of this Act.

3. *Revival of rights under repealed enactments.*] Any woman delivered of a bastard child on or before the tenth day of August one thousand eight hundred and seventy-two who, but for the repeal by the said recited Act of the enactments specified in the First Schedule hereto would have been entitled to apply for a summons against the putative father of such child, shall be entitled to apply for such summons as follows:

In any case in which she would have been entitled to apply at any time within twelve months from the birth of the child, she shall be entitled to apply at any time within six months next after the passing of this Act;

And in any case in which she would have been entitled to apply at any time after twelve months from the birth of the child, upon proof that the man alleged to be the father of the child had within the twelve months next after the birth of the child paid money for its maintenance, she shall be entitled to apply at any time after the passing of this Act upon the like proof;

And upon any such application the same proceedings shall or may be taken, and the same consequences including all rights of appeal, shall or may ensue as should or might have been taken or have ensued if the said enactments had not been repealed by the said recited Act.

4. *Proof of service of summons in certain cases.*] In cases where the putative father of any bastard child resides out of the petty sessional district where the mother applies for a summons or order of maintenance, it shall be lawful to prove by affidavit in the form referred to in the Second Schedule to this Act, or to the like effect, that such summons or order has been duly served. Any affidavit purporting to be so made and attested shall be received in evidence, and shall be deemed to be duly made and attested until the contrary be shown.

5. *Guardians may recover cost of relief of bastard child in certain cases.*] When a bastard child becomes chargeable to a union or parish, the guardians may apply to two justices having jurisdiction in the union or parish, in petty sessions, and thereupon such justices may summon the man alleged to be the father of the child to appear before any two justices having the like jurisdiction, to show cause why an order should not be made upon him to contribute towards the relief of the child, and upon his appearance, or on proof that the summons was duly served on him, or left at his last place of abode, six days at least before the petty session, the justices in such petty session shall hear the evidence of the mother, and such other evidence as she or the said guardians may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the said justices, they may adjudge the man to be the putative father of such bastard child, and they may proceed to make an order upon such putative father to pay to the guardians or one of their officers such sum, weekly or other-

wise, towards the relief of the child during such time as the child shall continue or afterwards be chargeable, as shall appear to them to be proper; and any payment so ordered to be made shall be recoverable by the relieving officer, or other officer appointed to receive it, in the manner provided by the said recited Act for the recovery of payments under an order obtained by the mother: Provided as follows:

1. That no payments shall be recoverable under such order except in respect of the time during which the child is actually in receipt of relief;
2. That an order under this section shall not be made, and if made shall cease except for the recovery of arrears, when the mother of the child has obtained an order under the said recited Act or this Act;
3. That nothing in this section shall be deemed to relieve the mother of a bastard child from her liability to maintain such child;
4. That any person upon whom an order is made under this section shall have the same right of appeal against such order as in the case of an order obtained on the application of the mother;
5. That if after an order has been made under this section the mother should apply for an order under the said recited Act or this Act, the order made under this section shall be *prima facie* evidence that the man upon whom the order is made is the father of the child.

6. *Issue of new or altered forms of proceedings.*] The Local Government Board may issue such new or altered forms of proceedings in matters of bastardy as they shall deem necessary or expedient for giving effect to the provisions of the said recited Act and of this Act.

7. *Adjournment of proceedings where two justices not present.*] If at the time appointed for the hearing of any case in and by any summons issued under the said recited Act or this Act two justices having jurisdiction to hear the same shall not be present, it shall be lawful for any one justice then present to adjourn the hearing to a certain time and place to be then appointed in the presence of the party or parties or their respective counsel, attorneys, or agents then present; and in the meantime the said justice may suffer the defendant to go at large upon his entering into a recognizance with or without surety or sureties, at the discretion of the said justice, conditioned for his appearance at the time and place to which such hearing shall be adjourned.

8. *Orders made by justices before passing of this Act valid.*] All orders made by any justices of the peace before the passing of this Act upon the putative father of any bastard child born before the tenth day of August one thousand eight hundred and seventy-two for any payment to be made by such putative father in respect of such child, which would have been valid if the "Bastardy Laws Amendment Act, 1872," had not passed, and which shall not have been appealed against before the passing of this Act, shall be, and be deemed to have been, valid and effectual in law, to all intents and purposes whatsoever.

9. *This and recited Act to be construed as one Act.*] This Act shall be deemed to be incorporated with the said recited Act, and shall be construed as if the said recited Act (except such parts thereof as have been repealed or amended by this Act) and this Act were one Act.

10. *Not to extend to Scotland or Ireland.*] This Act shall not extend to Scotland or Ireland.

SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.

7 & 8 Vict. c. 101.	An Act for the further Amendment of the Laws relating to the Poor in England.	Sections 2 and 3. Section 5 from "Provided always," to end of section; and section 7 to "Provided always."
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SECOND SCHEDULE.

AFFIDAVIT OF SERVICE.

I, A.B., one of the officers of the constabulary of the county of _____, make oath and say, that I did, on the day of _____ 18 _____, duly serve the defendant with a summons [or order], a true copy whereof is herewith annexed, marked A, by delivering the same personally to the defendant [or by leaving the same with _____ at the place of abode of the defendant].

[I endorse the copy summons (or order) thus. This paper, marked A, is the paper referred to in the annexed affidavit.]

Sworn at _____, in the county of _____, this day of _____ 18 _____, before me, _____ J.B.,

Justice of the Peace for the said county.

CAP. X.

An Act for punishing Mutiny and Desertion, and for the better payment of the Army and their Quarters.

[24th April, 1873.]

CAP. XI.

An Act for the Regulation of Her Majesty's Royal Marine Forces while on shore.

[24th April, 1873.]

CAP. XII.

An Act to amend the Law as to the Custody of Infants,

[24th April, 1873.]

Whereas it is expedient further to amend the law relating to the custody of infants:

Be it therefore enacted, &c., as follows:

1. *Court of Chancery may order that mother may have access to and custody of infant under sixteen years.*] From and after the passing of this Act it shall be lawful for the High Court of Chancery in England or in Ireland respectively, upon hearing the petition by her next friend of the mother of any infant or infants under sixteen years of age, to order that the petitioner shall have access to such infant or infants at such times and subject to such regulations as the Court shall deem proper, or to order that such infant or infants shall be delivered to the mother, and remain in or under her custody or control, or shall, if already in her custody or under her control, remain therein until such infant or infants shall attain such age, not exceeding sixteen, as the Court shall direct; and further, to order that such custody or control shall be subject to such regulations as regards access by the father or guardian of such infant or infants, and otherwise as the said Court shall deem proper.

2. *In case of separation deed between father and mother.*] No agreement contained in any separation deed made between the father and mother of an infant or infants shall be held to be invalid by reason only of its providing that the father of such infant or infants shall give up the custody or control thereof to the mother: Provided always, that no Court shall enforce any such agreement if the Court shall be of opinion that it will not be for the benefit of the infant or infants to give effect thereto.

3. *Repeal of 2 & 3 Vict. c. 54.*] The Act of the second and third Victoria, chapter fifty-four, intituled "An Act to amend the law relating to the custody of infants," shall be and is hereby repealed.

CAP. XIII.

An Act to discontinue the Office of Special Commissioners of Salmon Fisheries in England.

[24th April, 1873.]

CAP. XIV.

An Act to repeal the Acts relating to the Harbour of Portpatrick in Scotland, and to vest the Lighthouse of Portpatrick in the Commissioners of Northern Lighthouses.

[15th May, 1873.]

CAP. XV.

An Act to amend the New Zealand Roads, &c., Loan Act, 1870.

[15th May, 1873.]

CAP. XVI.

An Act to amend the Law relating to Marriages in Ireland in certain cases.

[15th May, 1873.]

CAP. XVII.

An Act to provide for the Redemption or Commutation of the Dividend on the Capital Stock of the East India Company, and for the Transfer of the Security Fund of the India Company to the Secretary of State in Council of India, and for the Dissolution of the East India Company. [15th May, 1873.]

CAP. XVIII.

An Act to grant certain Duties of Customs and Inland Revenue, and to alter other Duties. [15th May, 1873.]

CAP. XIX.

An Act for making better provision for the management in certain cases of Lands allotted under Local Acts of Inclosure for the benefit of the poor. [15th May, 1873.]

Whereas, it is expedient to provide for the better management in certain cases of lands allotted under Local Acts of Inclosure, for the benefit of the poor, and for the better administration of the law respecting such allotments in places in which the number of allotment wardens, trustees, or other functionaries appointed for the holding or managing such lands is larger than is found convenient for the proper management of the same:

Be it enacted, &c., as follows:

1. *Interpretation.* In this Act "Local Act of Inclosure" shall mean any Act for the inclosure of land passed before the Act of the eighth and ninth year of the reign of Her present Majesty, chapter one hundred and eighteen, which Act with the subsequent Acts amending the same is intitled "The Acts for the inclosure, exchange, and improvement of land;" and "allotment trustees" shall mean any allotment warden, trustees, or other functionaries appointed for or lawfully acting in the holding or managing lands intended for or being allotments under any Local Act of inclosure for the benefit of the poor, or for field gardens or recreation grounds, or for any public purpose.

2. *Short title.* This Act may be cited as "The Poor Allotments Management Act, 1873."

3. *Appointment of committees in certain cases for management of allotments.* A committee of not more than twelve nor less than six members of their own body (the number to be from time to time fixed by the appointing body) shall be appointed annually by the following authorities; that is to say,

(1.) By the allotment trustees, or a majority of votes of the allotment trustees present and voting at a meeting summoned as in this Act provided, where the number of allotment trustees for the time being exceeds twenty; and

(2.) By the vestry of any parish empowered to make an order in respect of poor allotments in pursuance of the Act of the second year of King William the Fourth, chapter forty-two, intituled "An Act to authorise (in parishes enclosed under any Act of Parliament) the letting of the poor allotments in small portions to industrious cottagers," where the number of persons for the time being entitled to attend such vestry exceeds twenty.

4. *Committee to exercise powers of authority appointing it.* A committee appointed in pursuance of this Act shall, during the year of their continuance in office, be substituted for and exercise, in respect of lands intended for or being such allotments as in this Act mentioned, all the powers of the allotment trustees (including all powers incident to their estate and ownership), or, as the case may be, of the vestry by which they were appointed.

5. *Appointment of committee to be made annually in August.* The appointment of a committee in pursuance of the Act shall take place annually, and the person whose duty it is to summon meetings of any such allotment trustees or vestry as aforesaid shall summon within twelve months after the passing of this Act, for the purpose of appointing a committee as required by this Act, a first meeting of the allotment trustees or vestry of which he is the summoning officer, or meetings whereof he is authorised to summon, and to summon a meeting of the same body for the like pur-

pose, to be held in the month of August in every year thereafter.

6. *How meetings of appointing authority to be summoned.* Any three trustees may summon a meeting of allotment trustees for the purposes of this Act by notice published in the manner in which notices of meetings of vestry are usually published in the place where the allotments or any parts thereof are situate of which such persons are trustees.

7. *Chairman of committee. Adjournment of committee. Quorum.* A committee appointed in pursuance of this Act may elect a chairman of its meetings, and if no chairman is elected, or if the chairman elected is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting. A committee may meet or adjourn as it thinks proper. The quorum of a committee shall consist of such number of members as may be prescribed by the authority that appointed it, or if no number be prescribed, of three members. Every question at a meeting of a committee shall be determined by a majority of votes of the members present and voting on that question, and in case of an equality of votes the chairman shall have a second or casting vote.

8. *Vacancies in committees.* The proceedings of a committee shall not be invalidated by any vacancy or vacancies among its members. Any casual vacancy or vacancies occurring during the year of office in the members of a committee may be filled by the committee itself by the appointment of a person or persons qualified as a member or members of the appointing body to be appointed thereon.

9. *Inclosure Commissioners may appoint committee if authority fail to do so.* If any authority required by this Act to appoint a committee fail to make such appointment within the time limited for making the same, the Inclosure Commissioners for England and Wales may, on the application of any person interested, appoint a committee of persons qualified as members of the body authorised by this Act to appoint the committee to be so appointed; and before making such appointment the Inclosure Commissioners shall give such notice of their intention to proceed on the application, and shall, by an assistant commissioner or otherwise, institute such local inquiry and hear such parties, and shall require such security from the applicant or upon the income of any allotment for payment of any expenses incurred by them as, having regard to the circumstances of the application, they think fit, and shall have power to call for the production of any award rate book or public document which they may think it necessary or proper to inspect.

10. *Repeal of provision of 2 W. 4. c. 42.* The provision in the herein-before mentioned Act of the second year of King William the Fourth, whereby no allotment is to be made of less than one quarter of an acre, is hereby repealed.

11. *Operation of notice to quit.* The notice to quit mentioned in the fifth section of the last-mentioned Act of the second year of King William the Fourth may be given by a committee, under the hands of any three of its members, for any cause deemed by it sufficient and proper, and shall operate and have effect in the same manner and to the same extent as a notice to quit given for any such cause as in that section mentioned.

12. *Rent may be required for year in advance.* Notwithstanding anything in the said Act of the second year of King William the Fourth contained, it shall be lawful for the authority executing the powers thereof, or of this Act, to require the rent for any land let under it to be paid for the whole year in advance.

13. *Provisions for rates, tithes, and taxes on lands.* In all cases in which lands shall be let under the provisions of the said Act of the second year of King William the Fourth, or of this Act, the allotment trustees or the overseers and churchwardens or other functionaries in whom the same may be vested shall for all purposes of rates and taxes be deemed the occupiers of such lands as shall from time to time be so let, and shall pay all rates, taxes, and tithe rentcharge (if any) in respect of the land so let, and the amount from time to time so paid by them shall be retained by or repaid to them out of the rents received on account of the lands so let before any other application thereof.

14. *Application of rents of land obtained by churchwardens and overseers for the employment of the poor.*] So much of the said Act of the second year of his Majesty King William the Fourth as provides for the application of rents of lands let under the provisions thereof shall not apply to rents of lands acquired under any of the Public General Acts passed in the fifty-ninth year of King George the Third, chapter twelve, and the first and second years of King William the Fourth, chapters forty-two and fifty-nine, by guardians or churchwardens and overseers of the poor for the purposes of those Acts, or any of them, but the rents of such lands shall, after deducting all proper charges, be applied in aid of the poor rate of the parish in which such lands are situate.

15. *Lands acquired by churchwardens and overseers and unfit for the purposes to be dealt with under 5 & 6 W. 4, c. 69, s. 3.*] Where any land has been acquired under the said last-recited Acts, or any of them, by guardians or churchwardens and overseers of the poor of any parish for the purposes of those Acts, and such purposes cannot in the judgment of the board of guardians of the parish, or, as the case may be, of the union comprising such parish, be carried into effect, the same lands shall be sold, exchanged, let, or otherwise disposed of in the manner prescribed by the third section of the Act of the fifth and sixth years of King William the Fourth, chapter sixty-nine.

16. *Act not to affect jurisdiction of Charity Commissioners.*] Nothing in this Act contained shall prejudice or affect any scheme made by the Charity Commissioners for England and Wales in exercise of the powers in that behalf conferred upon them by "The Charitable Trusts Act, 1853," or any Act amending the same, in respect of any allotment being a charity within the jurisdiction of those commissioners, or shall exclude or impair any jurisdiction or authority of those commissioners.

17. *Extent of Act.*] This Act shall extend only to England and Wales.

CAP. XX.

An Act for legalizing Marriages solemnized in Fulford Chapel, in the Parish of Stone, Staffordshire.

[26th May, 1873.]

CAP. XXI.

An Act to abolish Tests in Trinity College and the University of Dublin.

[26th May, 1873.]

CAP. XXII.

An Act to amend the law with respect to Customs Duties in the Australian Colonies.

[26th May, 1873.]

CAP. XXIII.

An Act to amend the law relating to the grant of Superannuation Allowances and Gratuities to certain persons who entered the permanent Civil Service of the State between the passing of the Superannuation Act, 1859, and the fourth day of June one thousand eight hundred and seventy.

[26th May, 1873.]

22 *Vict. c. 26, s. 17.*] Whereas by the Superannuation Act, 1859, it is enacted that for the purposes of that Act no person thereafter to be appointed shall be deemed to have served in the permanent Civil Service of the State unless such person holds his appointment directly from the Crown, or has been admitted into the Civil Service with a certificate from the Civil Service Commissioners:

And whereas it appears that in several public departments of the State persons have been appointed since the passing of the said Act to established situations in the Civil Service not held directly from the Crown, but that through inadvertence on the part of the heads of such departments, and without any default on the part of the persons so appointed no steps were taken before their appointment to procure for them certificates from the Civil Service Commissioners:

And whereas it is unjust that the persons so appointed should be deprived of the superannuation allowances or gratuities which they were led to expect at the time when they entered the Civil Service:

Be it enacted, &c., as follows:

1. *Amendment of Superannuation Act, 1859.*] The Com

missioners of Her Majesty's Treasury may, if they think fit, at any time before the first day of January one thousand eight hundred and seventy-four, with the concurrence of the Civil Service Commissioners, and on application being made to them for that purpose by the head or heads of any public department of the State, declare by order or warrant that any person who has been appointed to a permanent situation in such department without a certificate from the Civil Service Commissioners after the passing of the said Superannuation Act, 1859, and before the fourth day of June one thousand eight hundred and seventy, was so appointed through inadvertence on the part of the head or heads of such department, and without any default on the part of the person so appointed, and every person with respect to whom such order or warrant may be issued shall be in the same position as regards his claim to a superannuation allowance or gratuity, under the said Superannuation Act, 1859, as he would have been in if he had been admitted into the Civil Service with a certificate from the Civil Service Commissioners.

Any order or warrant made in pursuance of this Act shall be laid before Parliament in manner provided by the thirteenth section of the said Superannuation Act, 1859.

The Commissioners of Her Majesty's Treasury shall cause to be laid before Parliament, not later than the expiration of one month after the commencement of the session of Parliament in the year one thousand eight hundred and seventy-four, a return showing the names of all persons with respect to whom any order or warrant has been issued in pursuance of this section, together with the situations to which and the departments in which they have been appointed.

2. *Short title of Act.*] This Act may be cited for all purposes as "The Superannuation Act Amendment Act, 1873."

CAP. XXIV.

An Act to continue The Peace Preservation (Ireland) Act, 1870, and The Protection of Life and Property in certain Parts of Ireland Act, 1871.

[26th May, 1873.]

CAP. XXV.

An Act for legalizing Marriages solemnized in Gretton Chapel, in the Parish of Winchcomb, Gloucestershire.

[26th May, 1873.]

CAP. XXVI.

An Act to apply the sum of Twelve million Pounds out of the Consolidated Fund to the service of the year ending the thirty-first day of March one thousand eight hundred and seventy-four.

[16th June, 1873.]

CAP. XXVII.

An Act to amend the Law relating to Juries in Ireland.

[16th June, 1873.]

CAP. XXVIII.

An Act to render valid Marriages heretofore solemnized in the Chapel of Ease called "Saint John the Evangelist" Chapel, Eton, in the Parish of Eton in the County of Buckingham.

[16th June, 1873.]

CAP. XXIX.

An Act to alter the duties of customs upon sugar in the Isle of Man.

[16th June, 1873.]

CAP. XXX.

An Act to amend the Law of Registration in Ireland so far as relates to the year one thousand eight hundred and seventy-three, and for other purposes relating thereto.

[16th June, 1873.]

CAP. XXXI.

An Act to extend to Suits for Nullity of Marriage the Law with respect to the Intervention of Her Majesty's Proctor and others in Suits in England for dissolving Marriages.

[16th June, 1873.]

1. *Extension of sect. 7 of 23 & 24 Vict. c. 144, and sect. 3 of 29 & 30 Vict. c. 32, to suits for nullity of marriage.*

2. *Short title.*

CAP. XXXII.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[16th June, 1873.]

CAP. XXXIII.

An Act to facilitate the Proof of Bye-laws and Proceedings of Municipal Corporations in England and Wales.

[7th July, 1873.]

Whereas it is expedient to facilitate the proof of the bye-laws and proceedings of municipal corporations in England and Wales :

Be it therefore enacted, &c., as follows :

1. *Short title.*] This Act may be cited for all purposes as the "Municipal Corporations Evidence Act, 1873."

2. *Proof of bye-laws.*] The production of a written or printed copy of any bye-laws made by the council of a borough, either under the Municipal Corporations Act of the fifth and sixth of William the Fourth, chapter seventy-three, or under any present or future general or local Act of Parliament, authenticated by the common seal of the borough, shall be evidence, until the contrary is proved, of the due making and existence of such bye-laws, and, if so stated in such copy, of the same bye-laws having been approved and confirmed by the authority whose approval or confirmation is or shall be required to the making or enforcing of such bye-laws in all legal proceedings, without further proof of the making of such bye-laws, or of such approval or confirmation, or of the said common seal.

3. *Proofs of proceedings of council and its committees.*] Any minute of proceedings at meetings of the council, or of committees of the council, if signed by any person purporting to be the mayor of the borough or the chairman of a meeting of the council or committee of the council, either at the meeting of the council or committee of the council at which such proceedings took place, or at the next ensuing meeting of the council or committee of the council, shall be receivable in evidence in all legal proceedings, without further proof; and, until the contrary is proved, every meeting of the council or committee of the council in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified, and, when such proceedings are proceedings of committees, that such committees have been duly and regularly constituted, and had power to deal with the matters referred to in such proceedings.

4. *Punishment for forging seal or signatures.*] If any person shall forge the seal or signatures of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal or signature thereto, knowing the same to be false or counterfeit, he shall upon conviction be liable to imprisonment for any term not exceeding three years nor less than one year with hard labour.

5. *Interpretation of "borough."*] The word "borough" in the construction of this Act shall mean city, borough, or town corporate.

CAP. XXXIV.

An Act to amend an Act passed in a session held in the sixth and seventh years of the reign of King William the Fourth, chapter one hundred and sixteen, intituled An Act to consolidate and amend the Laws relating to the Presentment of Public Money by Grand Juries in Ireland.

[7th July, 1873.]

CAP. XXXV.

An Act to amend the Law relating to Securities for Loans contracted by County Authorities.

[7th July, 1873.]

Whereas it is expedient to amend the law relating to securities for loans contracted by county authorities :

Be it therefore enacted &c., as follows :

Preliminary.

1. *Short title.*] This Act may be cited for all purposes as "The County Debentures Act, 1873."

2. *Limits of Act.*] This Act shall not extend to Scotland or Ireland.

3. *Definition of terms.*] For the purposes of this Act—

"County authority" means the justices in general, quarter or gaol sessions assembled of any county, riding, division, parts, or liberty of a county :

"County rate" means any rate leviable by the county authority, including any stock, fund, or other property belonging to or capable of being mortgaged by the county authority :

"County officer" means the clerk of the peace or any officer performing duties analogous to those of the clerk of the peace :

"Special Act" means any Act passed before or after the passing of this Act authorising a county authority to borrow money.

County Debentures.

4. *Borrowing by county authority.*] Where any county authority is authorised by a special Act to borrow any money on the security of any county rate, it may, unless it is otherwise expressly provided by such Act of Parliament, raise any money so authorised to be borrowed by the issue of debentures under this Act.

5. *Regulations as to debentures.*] Every debenture issued in pursuance of this Act shall be a security for a principal sum and interest to be charged on the county rate in such debenture specified, and to be payable at a time or at times to be specified in the debenture.

The principal sum may be made payable to the bearer of the debenture, or to a person to be named therein, his executors, administrators, or assigns.

A debenture in which the principal sum is made payable to the bearer is in this Act referred to as a debenture payable to bearer, and shall be transferable by delivery.

A debenture in which the principal sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal debenture, and shall be transferable by deed in manner hereinafter mentioned.

There shall be annexed to a debenture, whether payable to bearer or nominal, or be issued in respect thereof, or partly in one way and partly in the other, coupons entitling the bearer of each coupon to receive the interest therein mentioned, upon presenting the same at a time and place in the coupon specified.

A debenture under this Act shall not be issued except for fifty pounds, or a number of fifty pounds not exceeding ten. All debentures issued in respect of the same loan or part of the same loan shall be separately numbered in a series and shall have inscribed thereon the same letter of the alphabet, and where more loans than one have been raised by the issue of debentures under this Act by the same county authority, the subsequent loans shall be described by a letter in the alphabet subsequent to any letter denoting a former loan.

6. *Authentication of debenture.*] Every debenture issued in pursuance of this Act shall be authenticated as follows ; that is to say, it shall be signed in open court of sessions by the acting chairman for the time being, and shall be countersigned by the county officer.

7. *Scheduled forms of debentures.*] The forms of debentures set forth in the schedule hereto may be adopted in all cases, and when so adopted shall be valid, but any other form not inconsistent with this Act may be used.

8. *Notice of trust not receivable.*] No notice of any trust, implied, express, or constructive, shall be receivable by a county authority in relation to any debenture issued by it.

9. *Rights of persons under debentures.*] All persons holding debentures or coupons issued in pursuance of this Act in respect of the same loan shall be entitled to be paid any sum for the time being due to them under any such debenture or coupon out of the county rate on which such sum is charged, without any preference one over the other by reason of the priority of date of any such instruments, or otherwise howsoever.

10. *Priority of loans.*] Where more than one loan has been raised by the same county authority, the debentures issued in respect of each loan shall take priority according to the date of such loan, and the date of a loan shall be

deemed to be the date at which the first debenture under this Act for such loan is issued.

Register of Debentures.

11. *Register of debentures.*] A register of debentures whether payable to bearer or nominal, shall be kept by the county officer, and may be inspected at all reasonable times by any person, upon payment of such fee, not exceeding a shilling, as may from time to time be prescribed by the county authority.

12. *Entry of memorial of nominal debentures.*] Within fourteen days after the issue of any nominal debenture, a memorial of such nominal debenture, specifying the sum secured thereby, and the name and description of the person to whom such sum is made payable, in this Act referred to as the nominee, shall be entered in such register, and until such entry of a memorial is made in the register the county authority shall not be in any manner responsible to the nominee in respect of such debenture.

13. *Transfer of nominal debenture.*] Any person entitled to any nominal debenture may at any time transfer his interest therein to any other person, by deed duly stamped, and every such transfer may be according to the form in the schedule to this Act or to the like effect, and may either be endorsed on the debenture or be made by a separate deed.

14. *Registration of transfer of nominal debentures.*] The county officer shall, upon application made by the transferee of a debenture and the production of the instrument of transfer, accompanied, if it be separate from the debenture transferred, by such debenture, and upon the payment of such fee not exceeding two shillings and sixpence as the county authority may from time to time prescribe, enter the name and description of the transferee in the register of debentures, and after such entry the transferee shall be entitled to the full benefit of the debenture in the same manner in all respects as if he had been the original nominee therein; but until such entry is made the county authority shall not be in any manner responsible to the transferee in respect of such debenture.

15. *Transmission of nominal debentures.*] If the interest in any nominal debenture has become transmitted in consequence of the death or bankruptcy of the person entitled to such debenture, or in consequence of the marriage of a female entitled to such debenture, or by any other lawful means than by a transfer, the county officer shall upon application made to him, and the production of such evidence, and the payment of such fee not exceeding two shillings and sixpence as the county authority may from time to time prescribe, enter the name and description of the person entitled under such transmission in the register of debentures; and after such entry the person to whom the interest in the debenture has been transmitted shall be entitled to the full benefit of the debenture in the same manner in all respects as if he had been the original nominee therein, but until such entry the county authority shall not be in any manner responsible to the person to whom the interest in the debenture has been transmitted.

Remedy for Non-payment of Moneys secured.

16. *Remedy by mandamus for non-payment of money due on debentures.*] If default is made in payment to the person for the time being entitled of any sum due on any debenture or coupon issued under this Act at the time appointed for payment thereof, the sum so due shall be deemed to be a debt due to the person so entitled from the county authority which issued such debenture or coupon of such a nature that a mandamus will be granted to enforce the payment thereof, and an action may be brought accordingly in the declaration in which a mandamus may be claimed.

17. *Remedy for non-payment of money due on debentures by appointment of receiver.*] If default is made in payment to any person or persons entitled of any sum or sums due on debentures or coupons issued under this Act at the time appointed for payment thereof, and the sum or aggregate of the sums the payment of which is thus in default amount to not less than five hundred pounds, such person or persons may instead of or in addition to bringing an action or actions for the sum or sums due apply to a court of equity for the appointment of a receiver; and any receiver so appointed shall (subject to any directions which may be

given by the court) from time to time raise within the jurisdiction of the authority which issued such debenture or coupon (in this section referred to as the defaulting authority), by levy of the rate on which the sum in default is charged, a sufficient sum to pay to the person or persons entitled all payments in default, together with all costs, charges, and expenses incurred in or about the levy of the rate, or in or about the appointment of such receiver, with a proper remuneration for his trouble, and shall render to the defaulting authority the balance, if any, remaining in his hands after making the payments by this section authorised.

Any receiver appointed in pursuance of this section shall have the same power of raising a rate by issue of precepts or otherwise as the defaulting authority itself would have.

18. *Incorporation of county authority for purposes of Act.*] The county authority issuing any debentures under this Act shall, so far as relates to such debentures, be deemed to be incorporated by the name of the county authority of the county, riding, division, parts, or liberty of a county to which it belongs, or by any other name by which such authority is ordinarily known or by which it granted the debenture or coupon in respect of which the action or other proceeding is brought, and may sue and be sued in any action or other legal proceeding relating thereto by such corporate name.

19. *Proceedings by or against county authority.*] Any county authority may appear in any action, suit, or other legal proceeding under this Act, or in relation to any matter arising under this Act, by the county officer or any person authorised in writing by the county officer; and any notice or document required to be served on the county authority in respect of any matter arising under this Act shall be deemed to be duly served on the county authority if served on the county officer or left at his office.

Supplemental Provisions.

20. *Exemption of holders of debentures from liability in respect of acts of county authority.*] A person advancing any money to a county authority, and receiving in consideration of such advance a debenture under this Act, shall not be bound to inquire whether such advance was or was not required, or was or was not within the borrowing powers of the authority issuing the debenture, or otherwise in accordance with the provisions of this Act, and shall not be prejudiced by the same not being so, and shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application thereof.

21. *Provisions as to forgery.*] A debenture issued in pursuance of this Act shall be considered to be a writing obligatory for the purpose of any enactment relating to the punishment of forgery.

22. *Moneys borrowed on security of rates to be paid off in a limited period.*] In order to discharge any moneys borrowed by a county authority on debentures issued in pursuance of this Act, the authority shall, unless some other method of discharging the same is prescribed by the special Act, pay off in every year of the period limited for repayment of the loan an equal portion thereof, together with interest on that portion, and on the balance of principal for the time being remaining unpaid.

23. *Loss of debentures.*] If any indenture or coupon issued under this Act is lost, mislaid, or destroyed, the county authority shall, on such indemnity being given as it may require, and on payment of the expense of the issue, issue a fresh debenture or coupon in the place of the debenture or coupon so lost, mislaid, or destroyed.

24. *Application of fees.*] All fees received by the county officer in pursuance of this Act shall be paid to the county treasurer for the public purposes of the county, at such times and in such manner as the county authority may direct.

Temporary Provisions.

25. *Power to raise money for discharge of existing debts.*] Any county authority may, by the issue of debentures under this Act, raise sufficient money for the purpose of discharging any debts borrowed by such authority under any special Acts, and due at the time of the passing by this Act; subject nevertheless, to the provisions of any such special Acts relating to the time and mode of repay-

ment of any such debts and to the rate or other securities charged therewith.

SCHEDULE.

Form of Debenture payable to Bearer.

COUNTY DEBENTURE (A.) PAYABLE TO BEARER.

No. (1.)

In pursuance of the Acts (a)

, with interest at pounds per cent.

The county authority of charge the county rate of with payment to the bearer of this debenture of the principal sum of on presentation of such debenture on the day of

for payment at or at such other place as may from time to time be fixed by the said authority, and with payment of interest thereon at the rate of

per cent. per annum half-yearly on the day of

and the day of, during such time as the said principal sum remains unpaid to the bearers of the coupons hereto annexed or to be hereafter issued in respect of this debenture, on presentation of such coupons at or at such other place as may from time to time be fixed by the said authority. The above payments to be made free from all deductions except income tax.

(Signed) A.B., Chairman.
G.H., County Officer.

(a) Insert reference to special Act authorising loan and to this Act.

Form of Nominal Debenture.

COUNTY DEBENTURE (A.)

No. (1.)

In pursuance of the Acts (a)

, with interest at pounds per cent.

The county authority of charge the county rate of with payment to A.B. of

in the county of his executors, administrators, and assigns, on the day of of the

principal sum of pounds, and with payment of interest thereon at the rate of per centum per annum half-yearly on the day of and

the day of, during such time as the said principal sum remains unpaid to the bearers of the coupons hereto annexed or to be hereafter issued in respect of this debenture, on presentation of such coupons at

or at such other place as may from time to time be fixed by the said authority. The above payments to be made free from all deductions except income tax.

(Signed) A.B., Chairman.
G.H., County Officer.

(a) Insert reference to special Act authorising loan and to this Act.

Form of Transfer of Nominal Debenture by Endorsement.

I, the within-named A.B., [or, if an endorsement has previously been made, the above-named A.B.] in consideration of the sum of paid to me by C.D. of

, do hereby transfer to the said C.D., his executors, administrators, and assigns, the within-contained county debenture, and all my estate and interest therein. In witness thereto I have hereunto affixed my seal this day of

Form of Transfer of Nominal Debenture by separate Deed.

I, A.B., of, &c., in consideration of the sum of paid to me by C.D. of, do hereby transfer to the said C.D., his executors, administrators, and assigns, a certain county debenture, (a)

and all my estate and interest therein. In witness thereto I have hereunto affixed my seal, this day of

(a) Insert short description of debenture.

CAP. XXXVI.

An Act for making provision as to certain portions of Her Majesty's woods, forests, and land revenues, and for other purposes relating thereto. [7th July, 1873.]

CAP. XXXVII.

An Act to amend the Law relating to Fairs in England and Wales. [7th July, 1873.]

Be it enacted, &c., as follows:

1. *Short title.*] This Act may be cited as "The Fairs Act, 1873."

2. *Extent of Act.*] This Act shall not extend to Scotland or Ireland.

3. *Definition of terms.*] In this Act the term "owner" means any person or persons, or body of commissioners or body corporate, entitled to hold any fair, whether in respect of the ownership of any lands or tenements, or under any charter, letters patent, or otherwise howsoever.

4. *Commencement of Act.*] This Act shall commence and take effect on the passing thereof.

5. 31 & 32 Vict. c. 51, repealed.] From and after the commencement of this Act "The Fairs Act, 1868," shall be and the same is hereby repealed.

6. *Power to Secretary of State to alter days of holding fairs.*] In case it shall appear to one of Her Majesty's Principal Secretaries of State, herein-after referred to as a Secretary of State, upon representation duly made to him by the justices acting in and for the petty sessional division within which any fair is held, or by the owner of any fair in England or Wales, that it would be for the convenience and advantage of the public that any such fair shall be held in each year on some day or days other than that or those on which such fair is used to be held, or on the day or days on which such fair is used to be held and any preceding or subsequent day or days, or on or during a less number of days than those on which such fair is used to be held, it shall be lawful for a Secretary of State to order that such fair shall be held on such other day or days, or on the same day or days and any preceding or subsequent day or days, or on or during any less number of days as he shall think fit: Provided always, that notice of such representation and of the time when it shall please a Secretary of State to take the same into consideration shall, if such representation shall have been made by justices, be given to the owner of such fair, and shall, if such representation shall have been made by the owner of such fair, be given to the clerk to the justices acting in and for the petty sessional division within which such fair is held, and shall also be published once in the London Gazette, and in three successive weeks in some one and the same newspaper published in the county, city, or borough in which such fair is held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, before such representation is so considered.

7. *Order of Secretary of State to be published in certain newspapers.* All rights &c., of owner to remain good.] When and so soon as any such order as aforesaid shall have been made by a Secretary of State notice of the making of the same shall be published in the London Gazette and in some one newspaper of the county, city, or borough in which such fair is usually held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, and thereupon such fair shall only be held on the day or days mentioned in such order; and it shall be lawful for the owner of such fair to take all such toll or tolls, and to do all such act or acts, and to enjoy all and the same rights, powers, and privileges in respect thereof, and enforce the same by all and the like remedies, as if the same were held on the day or days upon which it was used to be held previous to the making of such order.

CAP. XXXVIII.

An Act to amend an Act passed in the fifth year of the reign of His Majesty George the Fourth, chapter eighty-three, intituled "An Act for the punishment of idle and disorderly persons and rogues and vagabonds in that part of Great Britain called England," and to repeal "The Vagrant Act Amendment Act, 1868."

[7th July, 1873.]

Whereas it is expedient to amend an Act passed in the fifth year of the reign of His Majesty King George the Fourth, chapter eighty-three, intituled "An Act for the punishment of idle and disorderly persons and rogues and vagabonds in that part of Great Britain called England:"

Be it enacted, &c., as follows:

1. *Short title.*] This Act may be cited for all purposes as the "Vagrant Act Amendment Act, 1873."

vided, that the power of compelling a reference to the Commissioners in this section contained shall not apply to any case in which any arbitrator has in any general or special Act been designated by his name or by the name of his office or in which, a standing arbitrator having been appointed under any general or special Act, the Commissioners are of opinion that the difference in question may more conveniently be referred to him.

9. *Power to refer differences to Commissioners.* Any difference to which a railway company or canal company is a party may, on the application of the parties to the difference, and with the assent of the Commissioners, be referred to them for their decision.

10. *Transfer to Commissioners of certain powers and duties of the Board of Trade.* 26 & 27 Vict. c. 92.] The following powers and duties of the Board of Trade shall be transferred to the Commissioners; namely,

- (1.) The powers of the Board of Trade under Part III. of the Railway Clauses Act, 1863, or under any special Act, with respect to the approval of working agreement between railway companies; and,
- (2.) The powers and duties of the Board of Trade under section thirty-five of the Railway Clauses Act, 1863, with respect to the exercise by railway companies of their powers in relation to steam vessels:

And the provisions of the said Acts conferring such powers or imposing such duties, or otherwise referring to such powers or duties, shall, so far as is consistent with the tenor thereof, be read as if the Commissioners were therein named instead of the Board of Trade.

Explanation and Amendment of Law.

11. *Explanation of 17 & 18 Vict. c. 31, s. 2, as to through traffic.* Whereas by section two of the Railway and Canal Traffic Act, 1854, it is enacted that every railway company and canal company and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway and canal communication, or which have the terminus station or wharf of the one near the terminus station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways or canals all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may be by means of the railways and canals of the several companies be at all times afforded to the public in that behalf:

And whereas it is expedient to explain and amend the said enactment: Be it therefore enacted that—

Subject as herein-after mentioned, the said facilities to be so afforded are hereby declared to and shall include the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any other such company, of through traffic to and from the railway or canal of any other such company at through rates, tolls, or fares (in this Act referred to as through rates).

Provided as follows:

- (1.) The company requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding company, stating both its amount and its apportionment, and the route by which the traffic is proposed to be forwarded;
- (2.) Each forwarding company shall, within the prescribed period after the receipt of such notice, by written notice inform the company requiring the traffic to be forwarded whether they agree to the rate and

route; and, if they object to either, the grounds of the objection:

- (3.) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation at such expiration;
- (4.) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the Commissioners for their decision;
- (5.) If an objection be made to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly;
- (6.) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective; in any other case the operation of the rate shall be suspended until the decision is given;
- (7.) The Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof;
- (8.) It shall not be lawful for the Commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route;
- (9.) The prescribed period mentioned in this section shall be ten days, or such longer period as the Commissioners may from time to time by general order prescribe.

Where a railway company or canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

12. *Powers of Commissioners as to through rates.* Subject to the provisions in the last preceding section contained, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of such through rate than the maximum rate such company is entitled to charge, and to allow and apportion such through rate accordingly.

13. *Provision for complaints by public authority in certain cases.* A complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by this Act, may be made to the Commissioners by a municipal or other public corporation, local or harbour board, without proof that the complainants are aggrieved by the contravention: Provided that a complaint shall not be entertained by the Commissioners in pursuance of this section unless such complaint is accompanied by a certificate of the Board of Trade to the effect that in their opinion the case in respect of which the complaint is made is a proper one to be submitted for adjudication to the Commissioners by such municipal or other public corporation, local or harbour board.

14. *Publication of rates.* Every railway company and canal company shall keep at each of their stations and wharves a book or books showing every rate for the time being charged for the carriage of traffic, other than passengers and their luggage, from that station or wharf to any place to which they book, including any rates charged under any special contract, and stating the distance from that station or wharf of every station, wharf, siding, or place to which any such rate is charged.

Every such book shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee.

The Commissioners may from time to time, on the application of any person interested, make orders with respect to

any particular description of traffic, requiring a railway company or canal company to distinguish in such book how much of each rate is for the conveyance of the traffic on the railway or canal, including therein tolls for the use of the railway or canal, for the use of carriages, or vessels, or for locomotive power, and how much is for other expenses, specifying the nature and detail of such other expenses.

Any company failing to comply with the provisions of this section shall for each offence, and in the case of a continuing offence, for every day during which the offence continues, be liable to a penalty not exceeding five pounds, and such penalty shall be recovered and applied in the same manner as penalties imposed by the Railways Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation (Scotland) Act, 1845 (as the case may require), are for the time being recoverable and applicable.

15. *Power to Commissioners to fix terminal charges.* The Commissioners shall have power to hear and determine any question or dispute which may arise with respect to the terminal charges of any railway company, where such charges have not been fixed by any Act of Parliament, and to decide what is a reasonable sum to be paid to any company for loading and unloading, covering collection, delivery, and other services of a like nature; any decision of the Commissioners under this section shall be binding on all courts and in all legal proceedings whatsoever.

16. *Arrangements between railway companies and canal companies.* No railway company or canal company, unless expressly authorised thereto by any Act passed before the passing of this Act, shall, without the sanction of the Commissioners, to be signified in such manner as they may by general order or otherwise direct, enter into any agreement whereby any control over or right to interfere in or concerning the traffic carried or rates or tolls levied on any part of a canal is given to the railway company, or any persons managing or connected with the management of any railway; and any such agreement made after the commencement of this Act without such sanction shall be void.

The Commissioners shall withhold their sanction from any such agreement which is in their opinion prejudicial to the interests of the public.

Not less than one month before any such agreement is so sanctioned, copies of the intended agreement certified under the hand of the secretary of the railway company or one of the railway companies party or parties thereto, shall be deposited for public inspection at the office of the Commissioners, and also at the office of the clerk of the peace of the county, riding, or division in England or Ireland, in which the head office of any canal company party to the agreement is situate, and at the office of the principal sheriff clerk of every such county in Scotland, and notice of the intended agreement setting forth the parties between whom or on whose behalf the same is intended to be made, and such further particulars with respect thereto as the Commissioners may require, shall be given by advertisement in the London, Edinburgh, or Dublin Gazette, according as the head office of any canal company party to the agreement is situate in England, Scotland, or Ireland, and shall be sent to the secretary or principal officer of every canal company any of whose canals communicates with the canal of any company party to the agreement; and shall be published in such other way, if any, as the Commissioners for the purpose of giving notice to all parties interested therein by order direct.

17. *Maintenance of canals by railway companies.* Every railway company owning or having the management of any canal or part of a canal shall at all times keep and maintain such canal or part, and all the reservoirs, works and conveniences thereto belonging, thoroughly repaired and dredged and in good working condition, and shall preserve the supplies of water to the same, so that the whole of such canal or part may be at all times kept open, and navigable for the use of all persons desirous to use and navigate the same without any unnecessary hindrance, interruption, or delay.

Conveyance of Mails.

18. *Conveyance of mails.* Every railway company shall convey by any train all such mails as may be tendered for conveyance by such train, whether such mails be under the charge of a guard appointed by the Postmaster General

or not, and notwithstanding that no notice in writing requiring mails to be conveyed by such train has been given to the company by the Postmaster General.

Every railway company shall afford all reasonable facilities for the receipt and delivery of mails at any of their stations without requiring them to be booked or interposing any other delay.

Where the mails are in charge of a guard appointed by the Postmaster General, every railway company shall permit such guard, if he think fit, to receive and deliver them at any station by himself or his assistants, rendering him nevertheless such aid as he may require.

19. *Remuneration for conveyance of mails.*—Every railway company shall be entitled to reasonable remuneration for any services performed by them in pursuance of this Act with respect to the conveyance of mails, and such remuneration shall be paid by the Postmaster General.

Any difference between the Postmaster General and any railway company as to the amount of such remuneration, or as to any other question arising under this Act, shall be decided by arbitration, in manner provided by the Act of the session of the first and second years of the reign of Her present Majesty, chapter ninety-eight, or, at the option of such railway company, by the Commissioners.

20. *Conveyance of mails in steam vessels.* Where a railway company use, maintain, or work, or are party to any arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, all provisions contained in any Act with respect to the conveyance of mails by railways shall, so far as they are applicable to the conveyance of mails by steam vessels, extend to the steam vessels so used, maintained or worked.

Regulations as to Commissioners.

21. *Assistant Commissioners.* The Assistant Commissioners shall be subject to the orders of the Commissioners, and shall make such inquiries and reports, and perform such other acts and services as the Commissioners may direct; and it shall be lawful for such Assistant Commissioners, or either of them, to undertake such arbitration under the Act as the Commissioners with the consent of the parties to such arbitration may direct; and the said Assistant Commissioners for the purposes of such inquiries, reports, and arbitrations shall have and may exercise all powers of entry, inspection, summoning and examining witnesses, requiring the production of documents, and administering an oath by this Act conferred upon the Commissioners.

22. *Salary of Commissioners.* There shall be paid to each of the Commissioners such salary, not exceeding three thousand pounds a year, and to each Assistant Commissioner such salary, not exceeding fifteen hundred pounds a year, as the Treasury determine.

The salaries and expenses of the Commissioners and of their officers and of the Assistant Commissioners shall be paid out of moneys to be provided by Parliament.

23. *Assessors.* The Commissioners may from time to time, in the exercise of any jurisdiction in this Act conferred on them, with the consent of the Treasury, call in the aid of one or more assessors, who shall be persons of engineering or other technical knowledge. There shall be paid to such assessors such remuneration as the Treasury, upon the recommendation of the Commissioners, may direct.

24. *Appointment of officers.* The Commissioners may, from time to time appoint such officers and clerks with such salaries as the Commissioners, with the sanction of the Treasury, think fit.

25. *Powers of Commissioners.* For the purposes of this Act the Commissioners shall, subject as in this Act mentioned, have full power to decide all questions whether of law or of fact, and shall also have the following powers; that is to say,

- (a) They may, by themselves or by any person appointed by them to prosecute an inquiry, enter and inspect any place or building, being the property or under the control of any railway or canal company the entry or inspection of which appears to them requisite;
- (b) They may require the attendance of all such persons as they think fit to call before them and examine,

deemed to be the date at which the first debenture under this Act for such loan is issued.

Register of Debentures.

11. *Register of debentures.*] A register of debentures whether payable to bearer or nominal, shall be kept by the county officer, and may be inspected at all reasonable times by any person, upon payment of such fee, not exceeding a shilling, as may from time to time be prescribed by the county authority.

12. *Entry of memorial of nominal debentures.*] Within fourteen days after the issue of any nominal debenture, a memorial of such nominal debenture, specifying the sum secured thereby, and the name and description of the person to whom such sum is made payable, in this Act referred to as the nominee, shall be entered in such register, and until such entry of a memorial is made in the register the county authority shall not be in any manner responsible to the nominee in respect of such debenture.

13. *Transfer of nominal debenture.*] Any person entitled to any nominal debenture may at any time transfer his interest therein to any other person, by deed duly stamped, and every such transfer may be according to the form in the schedule to this Act or to the like effect, and may either be endorsed on the debenture or be made by a separate deed.

14. *Registration of transfer of nominal debentures.*] The county officer shall, upon application made by the transferee of a debenture and the production of the instrument of transfer, accompanied, if it be separate from the debenture transferred, by such debenture, and upon the payment of such fee not exceeding two shillings and sixpence as the county authority may from time to time prescribe, enter the name and description of the transferee in the register of debentures, and after such entry the transferee shall be entitled to the full benefit of the debenture in the same manner in all respects as if he had been the original nominee therein; but until such entry is made the county authority shall not be in any manner responsible to the transferee in respect of such debenture.

15. *Transmission of nominal debentures.*] If the interest in any nominal debenture has become transmitted in consequence of the death or bankruptcy of the person entitled to such debenture, or in consequence of the marriage of a female entitled to such debenture, or by any other lawful means than by a transfer, the county officer shall upon application made to him, and the production of such evidence, and the payment of such fee not exceeding two shillings and sixpence as the county authority may from time to time prescribe, enter the name and description of the person entitled under such transmission in the register of debentures; and after such entry the person to whom the interest in the debenture has been transmitted shall be entitled to the full benefit of the debenture in the same manner in all respects as if he had been the original nominee therein, but until such entry the county authority shall not be in any manner responsible to the person to whom the interest in the debenture has been transmitted.

Remedy for Non-payment of Moneys secured.

16. *Remedy by mandamus for non-payment of money due on debentures.*] If default is made in payment to the person for the time being entitled of any sum due on any debenture or coupon issued under this Act at the time appointed for payment thereof, the sum so due shall be deemed to be a debt due to the person so entitled from the county authority which issued such debenture or coupon of such a nature that a mandamus will be granted to enforce the payment thereof, and an action may be brought accordingly in the declaration in which a mandamus may be claimed.

17. *Remedy for non-payment of money due on debentures by appointment of receiver.*] If default is made in payment to any person or persons entitled of any sum or sums due on debentures or coupons issued under this Act at the time appointed for payment thereof, and the sum or aggregate of the sums the payment of which is thus in default amount to not less than five hundred pounds, such person or persons may instead of or in addition to bringing an action or actions for the sum or sums due apply to a court of equity for the appointment of a receiver; and any receiver so appointed shall (subject to any directions which may be

given by the court) from time to time raise within the jurisdiction of the authority which issued such debenture or coupon (in this section referred to as the defaulting authority), by levy of the rate on which the sum in default is charged, a sufficient sum to pay to the person or persons entitled all payments in default, together with all costs, charges, and expenses incurred in or about the levy of the rate, or in or about the appointment of such receiver, with a proper remuneration for his trouble, and shall render to the defaulting authority the balance, if any, remaining in his hands after making the payments by this section authorised.

Any receiver appointed in pursuance of this section shall have the same power of raising a rate by issue of precepts or otherwise as the defaulting authority itself would have.

18. *Incorporation of county authority for purposes of Act.*] The county authority issuing any debentures under this Act shall, so far as relates to such debentures, be deemed to be incorporated by the name of the county authority of the county, riding, division, parts, or liberty of a county to which it belongs, or by any other name by which such authority is ordinarily known or by which it granted the debenture or coupon in respect of which the action or other proceeding is brought, and may sue and be sued in any action or other legal proceeding relating thereto by such corporate name.

19. *Proceedings by or against county authority.*] Any county authority may appear in any action, suit, or other legal proceeding under this Act, or in relation to any matter arising under this Act, by the county officer or any person authorised in writing by the county officer; and any notice or document required to be served on the county authority in respect of any matter arising under this Act shall be deemed to be duly served on the county authority if served on the county officer or left at his office.

Supplemental Provisions.

20. *Exemption of holders of debentures from liability in respect of acts of county authority.*] A person advancing any money to a county authority, and receiving in consideration of such advance a debenture under this Act, shall not be bound to inquire whether such advance was or was not required, or was or was not within the borrowing powers of the authority issuing the debenture, or otherwise in accordance with the provisions of this Act, and shall not be prejudiced by the same not being so, and shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application thereof.

21. *Provisions as to forgery.*] A debenture issued in pursuance of this Act shall be considered to be a writing obligatory for the purpose of any enactment relating to the punishment of forgery.

22. *Moneys borrowed on security of rates to be paid off in a limited period.*] In order to discharge any moneys borrowed by a county authority on debentures issued in pursuance of this Act, the authority shall, unless some other method of discharging the same is prescribed by the special Act, pay off in every year of the period limited for repayment of the loan an equal portion thereof, together with interest on that portion, and on the balance of principal for the time being remaining unpaid.

23. *Loss of debentures.*] If any indenture or coupon issued under this Act is lost, mislaid, or destroyed, the county authority shall, on such indemnity being given as it may require, and on payment of the expense of the issue, issue a fresh debenture or coupon in the place of the debenture or coupon so lost, mislaid, or destroyed.

24. *Application of fees.*] All fees received by the county officer in pursuance of this Act shall be paid to the county treasurer for the public purposes of the county, at such times and in such manner as the county authority may direct.

Temporary Provisions.

25. *Power to raise money for discharge of existing debts.*] Any county authority may, by the issue of debentures under this Act, raise sufficient money for the purpose of discharging any debts borrowed by such authority under any special Acts, and due at the time of the passing by this Act; subject nevertheless, to the provisions of any such special Acts relating to the time and mode of repay-

ment of any such debts and to the rate or other securities charged therewith.

SCHEDULE.

Form of Debenture payable to Bearer.

COUNTY DEBENTURE (A.) PAYABLE TO BEARER.

No. (1.)

In pursuance of the Acts (a)

, with interest at _____ pounds per cent.
The county authority of _____ charge the county
rate of _____ with payment to the bearer of this
debenture of the principal sum of _____ on presen-
tation of such debenture on the _____ day of _____
for payment at _____ or at such other place
as may from time to time be fixed by the said authority,
and with payment of interest thereon at the rate of _____
per cent. per annum half-yearly on the _____ day of _____
and the _____ day of _____, during such
time as the said principal sum remains unpaid to the
bearers of the coupons hereto annexed or to be hereafter
issued in respect of this debenture, on presentation of such
coupons at _____ or at such other place as may from
time to time be fixed by the said authority. The above
payments to be made free from all deductions except
income tax.

(Signed) A.B., Chairman.
G.H., County Officer.

(a) Insert reference to special Act authorising loan and to this Act.

Form of Nominal Debenture.

COUNTY DEBENTURE (A.)

No. (1.)

In pursuance of the Acts (a)

, with interest at _____ pounds per cent.
The county authority of _____ charge the county
rate of _____ with payment to A.B. of _____
in the county of _____ his executors, administrators,
and assigns, on the _____ day of _____ of the
principal sum of _____ pounds, and with payment of
interest thereon at the rate of _____ per centum per
annum half-yearly on the _____ day of _____ and
the _____ day of _____, during such time as the said
principal sum remains unpaid to the bearers of the coupons
hereto annexed or to be hereafter issued in respect of this
debenture, on presentation of such coupons at _____
or at such other place as may from time to time be fixed
by the said authority. The above payments to be made
free from all deductions except income tax.

(Signed) A.B., Chairman.
G.H., County Officer.

(a) Insert reference to special Act authorising loan and to this Act.

Form of Transfer of Nominal Debenture by Endorsement.

I, the within-named A.B., [or, if an endorsement has
previously been made, the above-named A.B.,] in considera-
tion of the sum of _____ paid to me by C.D. of _____
, do hereby transfer to the said C.D., his execu-
tors, administrators, and assigns, the within-contained
county debenture, and all my estate and interest therein.
In witness thereto I have hereunto affixed my seal this
_____ day of _____.

Form of Transfer of Nominal Debenture by separate Deed.

I, A.B., of _____, &c., in consideration of the sum
of _____ paid to me by C.D. of _____, do hereby
transfer to the said C.D., his executors, administrators,
and assigns, a certain county debenture, (a)
and all my estate and interest therein. In witness there-
of I have hereunto affixed my seal, this _____ day of _____.

(a) Insert short description of debenture.

CAP. XXXVI.

An Act for making provision as to certain portions of Her
Majesty's woods, forests, and land revenues, and for
other purposes relating thereto. [7th July, 1873.]

CAP. XXXVII.

An Act to amend the Law relating to Fairs in England
and Wales. [7th July, 1873.]

Be it enacted, &c., as follows:

1. *Short title.*] This Act may be cited as "The Fairs
Act, 1873."

2. *Extent of Act.*] This Act shall not extend to Scotland
or Ireland.

3. *Definition of terms.*] In this Act the term "owner"
means any person or persons, or body of commissioners or
body corporate, entitled to hold any fair, whether in respect
of the ownership of any lands or tenements, or under
any charter, letters patent, or otherwise howsoever.

4. *Commencement of Act.*] This Act shall commence and
take effect on the passing thereof.

5. 31 & 32 Vict. c. 51, repealed.] From and after the com-
mencement of this Act "The Fairs Act, 1868," shall be
and the same is hereby repealed.

6. *Power to Secretary of State to alter days of holding fairs.*] In case it shall appear to one of Her Majesty's Principal Secretaries of State, herein-after referred to as a Secretary of State, upon representation duly made to him by the justices acting in and for the petty sessional division within which any fair is held, or by the owner of any fair in England or Wales, that it would be for the convenience and advantage of the public that any such fair shall be held in each year on some day or days other than that or those on which such fair is used to be held, or on the day or days on which such fair is used to be held and any preceding or subsequent day or days, or on or during a less number of days than those on which such fair is used to be held, it shall be lawful for a Secretary of State to order that such fair shall be held on such other day or days, or on the same day or days and any preceding or subsequent day or days, or on or during any less number of days as he shall think fit: Provided always, that notice of such representation and of the time when it shall please a Secretary of State to take the same into consideration shall, if such representation shall have been made by justices, be given to the owner of such fair, and shall, if such representation shall have been made by the owner of such fair, be given to the clerk to the justices acting in and for the petty sessional division within which such fair is held, and shall also be published once in the London Gazette, and in three successive weeks in some one and the same newspaper published in the county, city, or borough in which such fair is held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, before such representation is so considered.

7. *Order of Secretary of State to be published in certain newspapers.* All rights &c., of owner to remain good.] When and so soon as any such order as aforesaid shall have been made by a Secretary of State notice of the making of the same shall be published in the London Gazette and in some one newspaper of the county, city, or borough in which such fair is usually held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, and thereupon such fair shall only be held on the day or days mentioned in such order; and it shall be lawful for the owner of such fair to take all such toll or tolls, and to do all such act or acts, and to enjoy all and the same rights, powers, and privileges in respect thereof, and enforce the same by all and the like remedies, as if the same were held on the day or days upon which it was used to be held previous to the making of such order.

CAP. XXXVIII.

An Act to amend an Act passed in the fifth year of the reign of His Majesty George the Fourth, chapter eighty-three, intituled "An Act for the punishment of idle and disorderly persons and rogues and vagabonds in that part of Great Britain called England," and to repeal "The Vagrant Act Amendment Act, 1868."

[7th July, 1873.]

Whereas it is expedient to amend an Act passed in the fifth year of the reign of His Majesty King George the Fourth, chapter eighty-three, intituled "An Act for the punishment of idle and disorderly persons and rogues and vagabonds in that part of Great Britain called England:"

Be it enacted, &c., as follows:

1. *Short title.*] This Act may be cited for all purposes as the "Vagrant Act Amendment Act, 1873."

2. *Construction of Acts.*] This Act and the recited Act shall be construed as one Act.

3. *Extending provisions to gaming with coin, &c.*] Every person playing or betting by way of wagering or gaming in any street, road, highway, or other open and public place, or in any open place to which the public have or are permitted to have access, at or with any table or instrument of gaming, or any coin, card, token, or other article used as an instrument or means of such wagering or gaming, at any game or pretended game of chance, shall be deemed a rogue and vagabond within the true intent and meaning of the recited Act, and as such may be convicted and punished under the provisions of that Act, or, in the discretion of the justice or justices trying the case, in lieu of such punishment, by a penalty for the first offence not exceeding forty shillings, and for the second or any subsequent offence not exceeding five pounds.

4. *Commencement of Act.*] This Act shall commence and take effect on and after the first day of October one thousand eight hundred and seventy-three.

5. 31 & 32 Vict. c. 52 repealed.] The Vagrant Act Amendment Act, 1868, is hereby repealed.

CAP. XXXIX.

An Act to amend the Act of the third and fourth years of Victoria, chapter one hundred and thirteen, for the Regulation of Cathedrals, and to facilitate the Endowment of Canonries by private benefaction.

[21st July, 1873.]

CAP. XL.

An Act to authorise the acquisition and appropriation by the Metropolitan Board of Works of certain Land reclaimed from the River Thames in pursuance of the Thames Embankment Act, 1862.

[21st July, 1873.]

CAP. XLI.

An Act to amend the Public Schools Act, 1868, as to the Property of Shrewsbury and Harrow Schools.

[21st July, 1873.]

CAP. XLII.

An Act for amending the Tithe Commutation Acts with respect to Market Gardens.

[21st July, 1873.]

Whereas by the Tithe Commutation Acts (described in the schedule to this Act) provision is made for the commutation into a permanent rentcharge of the tithes leviable in the several parishes in England and Wales:

And whereas it is expedient to amend the said Acts in respect of the sections of such Acts in the said schedule particularly mentioned:

Be it therefore enacted, &c., as follows:

1. *Restriction of provisions respecting market gardens newly cultivated.*] So much of such sections, and of the powers therein contained conferred on the Tithe Commissioners, as provide for the charging of an additional rentcharge by way of extraordinary charge on market gardens newly cultivated as such, shall extend and apply only to a parish in which an extraordinary charge for market gardens was distinguished at the time of commutation.

2. *Saving for pending proceedings.*] Nothing in this Act shall affect or be deemed to apply to any proceedings taken or to be taken in relation to the charging of an additional rentcharge by way of extraordinary charge on market gardens newly cultivated as such in any case where an award in that behalf was made and confirmed, or where an application was made to the Tithe Commissioners to charge an additional rentcharge by way of extraordinary charge upon any market gardens newly cultivated as such, before the commencement of the present session of Parliament.

3. *Construction of Act. Short title.*] This Act shall be construed and have effect as one Act with the Tithe Commutation Acts, and may be cited as the Tithe Commutation Acts Amendment Act, 1873.

The SCHEDULE.
THE TITHE COMMUTATION ACTS.

Session, Chapter, and Title.	Sections relating specially to Market Gardens.
6 & 7 Will. 4, c. 71. An Act for the Commutation of Tithes in England and Wales.	Sections forty and forty-two.
7 Will. 4 and 1 Vict. c. 69. An Act to amend an Act for the Commutation of Tithes in England and Wales.	
2 & 3 Vict. c. 62. An Act to explain and amend the Acts for the Commutation of Tithes in England and Wales.	Sections twenty-six to thirty-three, inclusive.
3 & 4 Vict. c. 15. An Act further to explain and amend the Acts for the Commutation of Tithes in England and Wales.	Sections eighteen and nineteen.
5 & 6 Vict. c. 54. An Act to amend the Acts for the Commutation of Tithes in England and Wales, and to continue the officers appointed under the said Acts for a time to be limited.	
9 & 10 Vict. c. 73. An Act further to amend the Acts for the Commutation of Tithes in England and Wales.	
10 & 11 Vict. c. 104. An Act to explain the Acts for the Commutation of Tithes in England and Wales, and to continue the officers appointed under the said Acts until the 1st day of October, 1850, and to the end of the then next session of Parliament.	
14 & 15 Vict. c. 53. An Act to consolidate and continue the Copyhold and Inclosure Commissions, and to provide for the completion of proceedings under the Tithe Commutation Acts.	
23 & 24 Vict. c. 93. An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales.	Section forty-two.

CAP. XLIII.

An Act to enable Indian Railway Companies to issue and register Shares and Securities in India.

[21st July, 1873.]

CAP. XLIV.

An Act to facilitate the payment of certain annuities for life or years payable by the Commissioners for the Reduction of the National Debt.

[21st July, 1873.]

CAP. XLV.

An Act to authorise the Commissioners of Her Majesty's Treasury to guarantee the payment of a loan to be raised by the Government of Canada for the construction of public works in that country, and to repeal the Canada Defences Loan Act, 1870.

[21st July, 1873.]

CAP. XLVI.

An Act to afford facilities for the Transfer to the Grand Juries of the counties of Cork and Waterford of the bridge across the River Blackwater, near the town of Youghal; and for other purposes relating thereto.

[21st July, 1873.]

CAP. XLVII.

An Act to amend an Act passed in the session of Parliament held in the thirtieth and thirty-first years of the reign of Her present Majesty, intituled "An Act to authorise the Commissioners of Her Majesty's Treasury to compound the public debt due by the Commissioners of the bridge across the River Blackwater, near the town of Youghal, in the county of Cork, and for the transfer of the said bridge to the Grand Juries of the counties of Cork and Waterford; and for other purposes relating thereto." [21st July, 1873.]

CAP. XLVIII.

An Act to make better provision for carrying into effect the Railway and Canal Traffic Act, 1854, and for other purposes connected therewith. [21st July, 1873.]

Be it enacted, &c., as follows:

Preliminary.

1. *Short title.*] This Act may be cited as the Regulation of Railways Act, 1873.

2. *Commencement of Act.*] This Act shall, except as herein is otherwise expressly provided, come into operation on the first day of September one thousand eight hundred and seventy-three, which date is in this Act referred to as the commencement of this Act.

3. *Definitions.*] In this Act—

The term "railway company" includes any person being the owner or lessee of or working any railway in the United Kingdom constructed or carried on under the powers of any Act of Parliament:

The term "canal company" includes any person being the owner or lessee of, or working, or entitled to charge tolls for the use of any canal in the United Kingdom constructed or carried on under the powers of any Act of Parliament:

The term "person" includes a body of persons corporate or unincorporate:

The term "railway" includes every station, siding, wharf, or dock of or belonging to such railway and used for the purposes of public traffic:

The term "canal" includes any navigation which has been made under or upon which tolls may be levied by authority of Parliament, and also the wharves and landing-places of and belonging to such canal or navigation, and used for the purposes of public traffic:

The term "traffic" includes not only passengers and their luggage, goods, animals and other things conveyed by any railway company or canal company, but also carriages, waggons, trucks, boats, and vehicles of every description adapted for running or passing on the railway or canal of any such company:

The term "mails" includes mail bags and post-letter bags:

The term "special Act" means a local or local and personal Act, or an Act of a local and personal nature, and includes a Provisional Order of the Board of Trade confirmed by Act of Parliament, and a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864:

The term "the Treasury" means the Commissioners of her Majesty's Treasury for the time being:

The term "superior court" means in England any of her Majesty's Superior Courts at Westminster, in Ireland any of her Majesty's Superior Courts at Dublin, and in Scotland the Court of Session.

Appointment and Duties of Railway Commissioners.

4. *Appointment of railway commissioners.*] For the purpose of carrying into effect the provisions of the Railway and Canal Traffic Act, 1854, and of this Act, it shall be lawful for her Majesty, at any time after the passing of this Act, by warrant under the royal sign manual, to appoint not more than three Commissioners, of whom one shall be of experience in the law, and one of experience in railway business, and not more than two assistant Commissioners, and upon the occurrence of any vacancy in the

office of any such Commissioner or assistant Commissioner from time to time in like manner to appoint some fit person to fill the vacancy. It shall be lawful for the Lord Chancellor, if he think fit, to remove for inability or misbehaviour any Commissioner appointed in pursuance of this Act.

The three Commissioners appointed under this Act (and in this Act referred to as the Commissioners) shall be styled the Railway Commissioners, and shall have an official seal which shall be judicially noticed. They may act notwithstanding any vacancy in their number. The said assistant Commissioners shall hold office during the pleasure of Her Majesty.

5. *Commissioners not to be interested in railway or canal stock.*] Any person appointed a Commissioner under this Act shall within three calendar months after his appointment absolutely sell and dispose of any stock, share, debenture stock, debenture bond, or other security of any railway or canal company in the United Kingdom which he shall at the time of his appointment own or be interested in for his own benefit; and it shall not be lawful for any person appointed a Commissioner under this Act, so long as he shall hold office as such Commissioner, to purchase, take, or become interested in for his own benefit any such stock, share, debenture stock, debenture bond, or other security; and if any such stock, share, debenture stock, debenture bond, or other security, or any interest therein, shall come to or vest in such Commissioner by will or succession, for his own benefit, he shall within three calendar months after the same shall so come to or vest in him absolutely sell and dispose of the same or his interest therein.

It shall not be lawful for the Commissioners, except by consent of the parties to the proceedings, to exercise any jurisdiction by this Act conferred upon them in any case in which they shall be, directly or indirectly, interested in the matter in question.

The Commissioners shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this provision.

6. *Transfer to Commissioners of jurisdiction under 17 & 18 Vict. c. 31. s. 3.*] Any person complaining of anything done or of any omission made in violation or contravention of section two of the Railway and Canal Traffic Act, 1854, or of section sixteen of the Regulation of Railways Act, 1868, or of this Act, or of any enactment amending or applying the said enactments respectively, may apply to the Commissioners and upon the certificate of the Board of Trade alleging any such violation or contravention any person appointed by the Board of Trade in that behalf may in like manner apply to the Commissioners; and for the purpose of enabling the Commissioners to hear and determine the matter of any such complaint, they shall have and may exercise all the jurisdiction conferred by section three of the Railway and Canal Traffic Act, 1854, on the several courts and judges empowered to hear and determine complaints under that Act; and may make orders of like nature with the writs and orders authorised to be issued and made by the said courts and judges; and the said courts and judges shall, except for the purpose of enforcing any decision or order of the Commissioners, cease to exercise the jurisdiction conferred on them by that section.

7. *Power for Commissioners to enable companies to explain alleged violation of law.*] Where the Commissioners have received any complaint alleging the infringement by a railway company or canal company of the provisions of any enactment in respect of which the Commissioners have jurisdiction, they may, if they think fit, before requiring or permitting any formal proceedings to be taken on such complaint, communicate the same to the company against whom it is made, so as to afford them an opportunity of making such observations thereon as they may think fit.

8. *Differences between railway and canal companies to be referred to Commissioners.*] Where any difference between railway companies or between canal companies, or between a railway company and a canal company, is, under the provisions of any general or special Act, passed either before or after the passing of this Act required or authorised to be referred to arbitration, such difference shall, at the instance of any company party to the difference, and with the consent of the Commissioners, be referred to the Commissioners for their decision in lieu of being referred to arbitration: Pro-

vided, that the power of compelling a reference to the Commissioners in this section contained shall not apply to any case in which any arbitrator has in any general or special Act been designated by his name or by the name of his office or in which, a standing arbitrator having been appointed under any general or special Act, the Commissioners are of opinion that the difference in question may more conveniently be referred to him.

9. *Power to refer differences to Commissioners.* Any difference to which a railway company or canal company is a party may, on the application of the parties to the difference, and with the assent of the Commissioners, be referred to them for their decision.

10. *Transfer to Commissioners of certain powers and duties of the Board of Trade.* 26 & 27 Vict. c. 92. The following powers and duties of the Board of Trade shall be transferred to the Commissioners; namely,

(1.) The powers of the Board of Trade under Part III. of the Railway Clauses Act, 1863, or under any special Act, with respect to the approval of working agreement between railway companies; and,

(2.) The powers and duties of the Board of Trade under section thirty-five of the Railway Clauses Act, 1863, with respect to the exercise by railway companies of their powers in relation to steam vessels:

And the provisions of the said Acts conferring such powers or imposing such duties, or otherwise referring to such powers or duties, shall, so far as is consistent with the tenor thereof, be read as if the Commissioners were therein named instead of the Board of Trade.

Explanation and Amendment of Law.

11. *Explanation of 17 & 18 Vict. c. 31, s. 2, as to through traffic.* Whereas by section two of the Railway and Canal Traffic Act, 1854, it is enacted that every railway company and canal company and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway and canal communication, or which have the terminus station or wharf of the one near the terminus station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways or canals all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may be by means of the railways and canals of the several companies be at all times afforded to the public in that behalf:

And whereas it is expedient to explain and amend the said enactment: Be it therefore enacted that—

Subject as herein-after mentioned, the said facilities to be so afforded are hereby declared to and shall include the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any other such company, of through traffic to and from the railway or canal of any other such company at through rates, tolls, or fares (in this Act referred to as through rates).

Provided as follows:

(1.) The company requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding company, stating both its amount and its apportionment, and the route by which the traffic is proposed to be forwarded:

(2.) Each forwarding company shall, within the prescribed period after the receipt of such notice, by written notice inform the company requiring the traffic to be forwarded whether they agree to the rate and

route; and, if they object to either, the grounds of the objection:

(3.) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation at such expiration:

(4.) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the Commissioners for their decision:

(5.) If an objection be made to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly:

(6.) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective; in any other case the operation of the rate shall be suspended until the decision is given:

(7.) The Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof:

(8.) It shall not be lawful for the Commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route:

(9.) The prescribed period mentioned in this section shall be ten days, or such longer period as the Commissioners may from time to time by general order prescribe.

Where a railway company or canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

12. *Powers of Commissioners as to through rates.* Subject to the provisions in the last preceding section contained, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of such through rate than the maximum rate such company is entitled to charge, and to allow and apportion such through rate accordingly.

13. *Provision for complaints by public authority in certain cases.* A complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by this Act, may be made to the Commissioners by a municipal or other public corporation, local or harbour board, without proof that the complainants are aggrieved by the contravention: Provided that a complaint shall not be entertained by the Commissioners in pursuance of this section unless such complaint is accompanied by a certificate of the Board of Trade to the effect that in their opinion the case in respect of which the complaint is made is a proper one to be submitted for adjudication to the Commissioners by such municipal or other public corporation, local or harbour board.

14. *Publication of rates.* Every railway company and canal company shall keep at each of their stations and wharves a book or books showing every rate for the time being charged for the carriage of traffic, other than passengers and their luggage, from that station or wharf to any place to which they book, including any rates charged under any special contract, and stating the distance from that station or wharf of every station, wharf, siding, or place to which any such rate is charged.

Every such book shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee.

The Commissioners may from time to time, on the application of any person interested, make orders with respect to

any particular description of traffic, requiring a railway company or canal company to distinguish in such book how much of each rate is for the conveyance of the traffic on the railway or canal, including therein tolls for the use of the railway or canal, for the use of carriages, or vessels, or for locomotive power, and how much is for other expenses, specifying the nature and detail of such other expenses.

Any company failing to comply with the provisions of this section shall for each offence, and in the case of a continuing offence, for every day during which the offence continues, be liable to a penalty not exceeding five pounds, and such penalty shall be recovered and applied in the same manner as penalties imposed by the Railways Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation (Scotland) Act, 1845 (as the case may require), are for the time being recoverable and applicable.

15. *Power to Commissioners to fix terminal charges.* The Commissioners shall have power to hear and determine any question or dispute which may arise with respect to the terminal charges of any railway company, where such charges have not been fixed by any Act of Parliament, and to decide what is a reasonable sum to be paid to any company for loading and unloading, covering collection, delivery, and other services of a like nature; any decision of the Commissioners under this section shall be binding on all courts and in all legal proceedings whatsoever.

16. *Arrangements between railway companies and canal companies.* No railway company or canal company, unless expressly authorised thereto by any Act passed before the passing of this Act, shall, without the sanction of the Commissioners, to be signified in such manner as they may by general order or otherwise direct, enter into any agreement whereby any control over or right to interfere in or concerning the traffic carried or rates or tolls levied on any part of a canal is given to the railway company, or any persons managing or connected with the management of any railway; and any such agreement made after the commencement of this Act without such sanction shall be void.

The Commissioners shall withhold their sanction from any such agreement which is in their opinion prejudicial to the interests of the public.

Not less than one month before any such agreement is so sanctioned, copies of the intended agreement certified under the hand of the secretary of the railway company or one of the railway companies party or parties thereto, shall be deposited for public inspection at the office of the Commissioners, and also at the office of the clerk of the peace of the county, riding, or division in England or Ireland, in which the head office of any canal company party to the agreement is situate, and at the office of the principal sheriff clerk of every such county in Scotland, and notice of the intended agreement setting forth the parties between whom or on whose behalf the same is intended to be made, and such further particulars with respect thereto as the Commissioners may require, shall be given by advertisement in the London, Edinburgh, or Dublin Gazette, according as the head office of any canal company party to the agreement is situate in England, Scotland, or Ireland, and shall be sent to the secretary or principal officer of every canal company any of whose canals communicates with the canal of any company party to the agreement; and shall be published in such other way, if any, as the Commissioners for the purpose of giving notice to all parties interested therein by order direct.

17. *Maintenance of canals by railway companies.* Every railway company owning or having the management of any canal or part of a canal shall at all times keep and maintain such canal or part, and all the reservoirs, works and conveniences thereto belonging, thoroughly repaired and dredged and in good working condition, and shall preserve the supplies of water to the same, so that the whole of such canal or part may be at all times kept open, and navigable for the use of all persons desirous to use and navigate the same without any unnecessary hindrance, interruption, or delay.

Conveyance of Mails.

18. *Conveyance of mails.* Every railway company shall convey by any train all such mails as may be tendered for conveyance by such train, whether such mails be under the charge of a guard appointed by the Postmaster General

or not, and notwithstanding that no notice in writing requiring mails to be conveyed by such train has been given to the company by the Postmaster General.

Every railway company shall afford all reasonable facilities for the receipt and delivery of mails at any of their stations without requiring them to be booked or interposing any other delay.

Where the mails are in charge of a guard appointed by the Postmaster General, every railway company shall permit such guard, if he think fit, to receive and deliver them at any station by himself or his assistants, rendering him nevertheless such aid as he may require.

19. *Remuneration for conveyance of mails.*—Every railway company shall be entitled to reasonable remuneration for any services performed by them in pursuance of this Act with respect to the conveyance of mails, and such remuneration shall be paid by the Postmaster General.

Any difference between the Postmaster General and any railway company as to the amount of such remuneration, or as to any other question arising under this Act, shall be decided by arbitration, in manner provided by the Act of the session of the first and second years of the reign of Her present Majesty, chapter ninety-eight, or, at the option of such railway company, by the Commissioners.

20. *Conveyance of mails in steam vessels.* Where a railway company use, maintain, or work, or are party to any arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, all provisions contained in any Act with respect to the conveyance of mails by railways shall, so far as they are applicable to the conveyance of mails by steam vessels, extend to the steam vessels so used, maintained or worked.

Regulations as to Commissioners.

21. *Assistant Commissioners.* The Assistant Commissioners shall be subject to the orders of the Commissioners, and shall make such inquiries and reports, and perform such other acts and services as the Commissioners may direct; and it shall be lawful for such Assistant Commissioners, or either of them, to undertake such arbitration under the Act as the Commissioners with the consent of the parties to such arbitration may direct; and the said Assistant Commissioners for the purposes of such inquiries, reports, and arbitrations shall have and may exercise all powers of entry, inspection, summoning and examining witnesses, requiring the production of documents, and administering an oath by this Act conferred upon the Commissioners.

22. *Salary of Commissioners.* There shall be paid to each of the Commissioners such salary, not exceeding three thousand pounds a year, and to each Assistant Commissioner such salary, not exceeding fifteen hundred pounds a year, as the Treasury determine.

The salaries and expenses of the Commissioners and of their officers and of the Assistant Commissioners shall be paid out of moneys to be provided by Parliament.

23. *Assessors.* The Commissioners may from time to time, in the exercise of any jurisdiction in this Act conferred on them, with the consent of the Treasury, call in the aid of one or more assessors, who shall be persons of engineering or other technical knowledge. There shall be paid to such assessors such remuneration as the Treasury, upon the recommendation of the Commissioners, may direct.

24. *Appointment of officers.* The Commissioners may, from time to time appoint such officers and clerks with such salaries as the Commissioners, with the sanction of the Treasury, think fit.

25. *Powers of Commissioners.* For the purposes of this Act the Commissioners shall, subject as in this Act mentioned, have full power to decide all questions whether of law or of fact, and shall also have the following powers; that is to say,

- (a) They may, by themselves or by any person appointed by them to prosecute an inquiry, enter and inspect any place or building, being the property or under the control of any railway or canal company the entry or inspection of which appears to them requisite;
- (b) They may require the attendance of all such persons as they think fit to call before them and examine,

and may require answers or returns to such inquiries as they think fit to make;

- (c) They may require the production of all books, papers, and documents relating to the matters before them;
- (d) They may administer an oath;
- (e) They may when sitting in open court punish for contempt in like manner as if they were a court of record.

Every person required by the Commissioners to attend as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred to a master of one of the superior courts, who, on request, under the hands of the Commissioners, shall ascertain and certify the proper amount of such expenses.

26. *Orders of Commissioners.*] Any decision or any order made by the Commissioners for the purpose of carrying into effect any of the provisions of this Act may be made a rule or order of any superior court, and shall be enforced either in the manner directed by section three of the Railway and Canal Traffic Act, 1854, as to the writs and orders therein mentioned, or in like manner as any rule or order of such court.

For the purpose of carrying into effect this section, general rules and orders may be made by any superior court in the same manner as general rules and orders may be made with respect to any other proceedings in such court.

The Commissioners may review and rescind or vary any decision or order previously made by them or any of them.

The Commissioners shall, in all proceedings before them under sections 6, 11, 12, and 13 of this Act, and may, if they think fit, in all other proceedings before them under this Act, at the instance of any party to the proceedings before them, and upon such security being given by the appellant as the Commissioners may direct, state a case in writing for the opinion of any superior court determined by the Commissioners upon any question which in the opinion of the Commissioners is question of law.

The court to which the case is transmitted shall hear and determine the question or questions of law arising thereon, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the Commissioners with the opinion of the court thereon, or may make such other order in relation to the matter, and may make such order as to costs, as to the court may seem fit, and all such orders shall be final and conclusive on all parties: Provided that the Commissioners shall not be liable to any costs in respect or by reason of any such appeal.

The operation of any decision or order made by the Commissioners shall not be stayed pending the decision of any such appeal, unless the Commissioners shall otherwise order.

Save as aforesaid, every decision and order of the Commissioners shall be final.

27. *Sittings of Commissioners.*] The Commissioners shall sit at such times and in such places and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business; they may, subject as in this Act mentioned, sit either together or separately, and either in private or in open court, but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court.

28. *Costs.*] The costs of and incidental to any proceeding before the Commissioners shall be in the discretion of the Commissioners.

29. *Power of Commissioners to make general orders.*] The Commissioners may at any time after the passing of this Act and from time to time make such general orders as may be requisite for the regulation of proceedings before them, including applications for and the stating of cases for appeal, and also for prescribing, directing, or regulating any matter which they are authorised by this Act to prescribe, direct, or regulate by general order, and also for enabling the Commissioners in cases to be specified in such general orders to exercise their jurisdiction by any one or two of their number: Provided, that any person aggrieved by any decision or order made in any case so specified may require a re-hearing by all the Commissioners; they may further make regulations for enabling them to carry into effect the provisions of this Act, and may from time to time revoke and alter any general orders or regulations made in pursuance of this Act. Every general

order, and every alteration in a general order, made in pursuance of this section shall be submitted to the Lord Chancellor for approval, and shall not come into force until it shall be approved by him.

Every general order purporting to be made in pursuance of this Act shall, immediately after the making thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within seven days after the then next meeting of Parliament, and if either House of Parliament by a resolution passed within two months after such general order has been so laid before the said House, resolve that the whole or any part of such general order ought not to continue in force, the same shall after the date of such resolution cease to be of any force, without prejudice nevertheless to the making of any other general order in its place, or to anything done in pursuance of such general order before the date of such resolution; but, subject as aforesaid, every general order purporting to be made in pursuance of this Act shall be deemed to have been duly made and within the powers of this Act, and shall have effect as if it had been enacted in this Act.

30. *Evidence of documents.*] Every document purporting to be signed by the Commissioners, or any one of them, shall be received in evidence without proof of such signature, and until the contrary is proved shall be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

31. *Commissioners to make annual reports.*] The Commissioners shall, once in every year, make a report to Her Majesty of their proceedings under this Act during the past year, and such report shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and, if not, then within fourteen days after the next meeting of Parliament.

Miscellaneous.

32. *Determination of fees.*] The Commissioners may, at any time after the passing of this Act, by general order, with the concurrence of the Treasury, appoint the fees to be taken in relation to proceedings before them, and may from time to time, by general order, with the like concurrence, increase, reduce, or abolish all or any of such fees, and appoint new fees to be taken in relation to such proceedings.

33. *Collection of fees.* 29 & 30 Vict. c. 76.] The Public Offices Fees Act, 1866, shall apply to all fees taken in relation to any proceedings before the Commissioners.

Any fee or payment in the nature or lieu of a fee paid in respect of any proceedings before the Commissioners and collected otherwise than by means of stamps, shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury from time to time direct, and carried to the Consolidated Fund.

34. *Taxation of costs.*] The costs, charges, and expenses of and incidental to any proceedings before the Commissioners which are incurred by any person, shall, if required, be taxed in the same manner and by the same persons as if such proceedings were proceedings in a superior court.

35. *Notices how to be given.*] Any notice required or authorised to be given under this Act may be in writing or in print, or partly in writing and partly in print, and may be sent by post, and if sent by post shall be deemed to have been received at the time when the letter containing the same would have been delivered in the ordinary course of the post; and in proving such sending it shall be sufficient to prove that the letter containing the notice was prepaid and properly addressed and put into a post office.

36. *Application of Act to Scotland.*] In the application of this Act to Scotland—

- (1.) The term "attending on subpoena before a Court of Record" means attending on citation the Court of Justiciary;
- (2.) The Queen's and Lord Treasurer's Remembrancer shall perform the duties of a master of one of the superior courts under this Act.

Temporary Provisions.

37. *Duration of office and powers of Commissioners.*] This Act shall continue in force for five years next after the

passing of this Act, and thenceforth until the end of the then next session of Parliament, but the expiration of this Act shall not affect the validity of anything done before such expiration.

CAP. XLIX.

An Act to authorise Advances to the Public Works Loan Commissioners for enabling them to make Loans to School Boards in pursuance of the Elementary Education Act, 1870, and to Sanitary Authorities in pursuance of the Public Health Act, 1872.

[21st July, 1873.]

1. *Short title.*
2. *Power to issue £3,000,000 out of the Consolidated Fund for school and sanitary loans.*
3. *Moneys so issued to be applied exclusively to school and sanitary loans.*
4. *Power to raise money for issues, or to replace issues out of the Consolidated Fund.*
5. *Investment by National Debt Commissioners in securities under Act.*
6. *Interpretation.*

CAP. L.

An Act to afford further facilities for the Conveyance of Land for Sites for Places of Religious Worship and for Burial Places.

[21st July, 1873.]

Whereas it is expedient to afford greater facilities for granting sites for buildings for religious worship and for burial places in England and Wales:

Be it therefore enacted, &c., as follows:

1. *Landlords empowered to convey land to be used as sites for places of worship and residence of the minister. If lands cease to be used for the purposes of the Act, then to revert.* Any person or persons being seised or entitled in fee simple, fee tail, or for life or lives of or to any manor or lands of freehold tenure, and having the beneficial interest therein, and being in possession for the time being, may grant, convey, or enfranchise by way of gift, sale, or exchange in fee simple, or for any term of years, any quantity not exceeding one acre of such land, not being part of a demesne or pleasure ground attached to any mansion house, as a site for a church, chapel, meeting house, or other place of divine worship, or for the residence of a minister officiating in such place of worship or in any place of worship within one mile of such site, or for a burial place, or any number of such sites, provided that each such site does not exceed the extent of one acre: Provided also, that no such grant, conveyance, or enfranchisement made by any person seised or entitled only for life or lives of or to any such manor or lands shall be valid unless the person next entitled to the same for a beneficial interest in remainder in fee simple or fee tail (if legally competent) shall be a party to and join in the same, or if such person be a minor, or married woman, or lunatic, unless the guardian, husband, or committee of such person respectively shall in like manner concur: Provided also, that in case the said land so granted, conveyed, or enfranchised as aforesaid, or any part thereof, shall at any time be used for any purpose other than as a site for such place of worship or residence, or burial place, or in the case of a place of worship or residence, shall cease for a year at one time to be used as such place of worship or residence, the same shall thereupon revert to and become a portion of the lands from which the same was severed, as fully to all intents and purposes as if this Act had not been passed, anything herein contained to the contrary notwithstanding. The provisions hereinbefore contained with respect to any manor or lands of freehold tenure shall apply to lands of copyhold or customary tenure, but so, nevertheless, that the provisions of "The Lands Clauses Consolidation Act, 1845," with respect to copyhold lands (being sections 95, 96, 97 and 98 of such Act) shall for the purposes of this enactment be incorporated with this Act.

2. *As to payment of purchase money, &c.* The purchase money or enfranchisement money or money to be received for equality of exchange on any such sale, enfranchisement,

or exchange shall, if such sale, enfranchisement, or exchange be made by any person or persons seised or entitled in fee simple or fee tail, be paid to the person or persons making such sale, enfranchisement, or exchange, but if such sale, enfranchisement, or exchange be made by any person or persons seised or entitled for life or lives only, then such purchase money, or enfranchisement money, or money to be received for equality of exchange, shall be paid to the existing trustees or trustee (if any) of the instrument under which such person or persons is or are so seised or entitled, to be held by them upon the trusts upon which the land conveyed for such site was held, or if there be no such existing trustees or trustee to two or more trustees to be nominated in writing by the person or persons making such sale, enfranchisement, or exchange; and the receipt of any person or persons to whom such money is hereby directed to be paid shall effectually discharge the person or persons paying such purchase or enfranchisement money or money for equality of exchange therefrom, and from all liability in respect of the application thereof; and the trustees so to be nominated as aforesaid shall invest such purchase or enfranchisement money or money to be received for equality of exchange in the purchase of other lands or hereditaments to be settled to the same uses and trusts as the land conveyed for such site should have stood limited to; and until such investment, such purchase or enfranchisement money or money to be received for equality of exchange shall be invested upon such securities or investments as would for the time being be authorised by statute or by the Court of Chancery, and for the purposes of devolution and enjoyment shall be treated as land subject to the same uses and trusts as the land conveyed for such site should have stood limited to.

3. *Persons under disability empowered to convey lands for the purposes of the Act.* Where any person or persons is or are equitably entitled to any manor or lands, but the legal estate therein shall be in some trustee or trustees, it shall be sufficient for such person or persons to convey or otherwise assure the same for the purposes of this Act without the trustee or trustees being party or parties to the conveyance or other assurance thereof, and where any married woman shall be seised or possessed of or entitled to any estate or interest, manorial or otherwise, in land proposed to be conveyed or otherwise assured for the purposes of this Act, she and her husband may convey, or otherwise assure the same, for such purposes by deed without any acknowledgment thereof; and where it is deemed expedient to purchase any land for the purposes aforesaid belonging to or vested in any infant or lunatic, such land may be conveyed or otherwise assured by the guardian of such infant or the committee of such lunatic respectively, who may receive the purchase money for the same, and give valid and sufficient discharges to the party paying such purchase money, who shall not be required to see to the application thereof; and in every such case respectively the legal estate shall, by such conveyance or other assurance, vest in the trustees of such place of worship or residence; and if any land taken under this Act be subject to any rent, and part only of the land subject to any such rent be required to be taken for the purposes of this Act, the apportionment of such rent may be settled by agreement between the owner of such rent and the person or persons to whom the land is conveyed; and if such apportionment be not so settled by agreement, then the same shall be settled by two justices as provided in "The Lands Clauses Consolidation Act, 1845," section 119: Provided nevertheless, that nothing herein contained shall prejudice or affect the right of any person or persons entitled to any charge or incumbrance on such land.

4. *Form of grants, &c.* All gifts, grants, conveyances, assurances, and leases of any site for a place of worship, or the residence of a minister, under the provisions of this Act, in respect of any land, messuages, or buildings may be made according to the form following, or as near thereto as the circumstances of the case will admit; (that is to say,)

"I [or We] under the authority of an Act passed in the thirty-sixth and thirty-seventh years of her Majesty Queen Victoria, intituled 'An Act to afford further facilities for the conveyance of land for sites for places of religious worship and for burial places,' do hereby freely and voluntarily, and without any valuable consideration, [or, do, in the consideration of the sum of pounds to me or the said

paid] grant [alienate] and convey [or lease] to A.B. all [description of the premises], and all [my or our or, the right, title, and interest of the] to and in the same and every part thereof, to hold unto and to the use of the said and his or their heirs, or executors, or administrators, or successors, for the purposes of the said Act, and to be applied as a site for a place of worship, or for a residence for a minister or ministers officiating in , or for a burial place, and for no other purposes whatever. [In case the site be conveyed to trustees, a clause providing for the removal of the trustees, and in cases where the land is purchased, exchanged, or demised, usual covenants or obligations for title may be added.]

"In witness whereof, the conveying and other parties have hereunto set their hands and seals, the day of

"Signed, sealed, and delivered by the said in the presence of of "

One witness to the execution of the document by each party shall be sufficient, and any assurance under this Act shall be and continue valid if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof.

5. *Ecclesiastical Commissioners may accept trusts.*] The persons hereinbefore specified may convey, by way of gift, sale, or exchange, any site or sites, not exceeding in the case of any one site the quantity aforesaid for any of the purposes of the Church Building Acts, to the Ecclesiastical Commissioners for England, or as such Commissioners may direct, and such Commissioners may also act as trustees for the purpose of taking and holding any sites granted under this Act; and all conveyances made under this present enactment shall be deemed to be made under the Church Building Acts, and the land conveyed shall vest in conformity with such conveyances and the Church Building Acts.

6. *Extent of Act.*] The provisions of this Act shall not extend to Scotland or Ireland.

7. *Short title.*] This Act may be cited as "The Places of Worship Sites Act, 1873."

CAP. LI.

An Act to amend the Law relating to the Superannuation of Prison Officers in Ireland. [28th July, 1873.]

CAP. LII.

An Act for the Relief of Widows and Children of Intestates where the personal estate is of small value.

[28th July, 1873.]

Whereas many poor persons die intestate, possessed of property of small amount, and it is desirable to increase the facilities for taking out letters of administration to their estates and effects, and to reduce the expenses attending the same:

Be it therefore enacted, &c., as follows:

1. *For purposes of Act application may be made to a registrar of a county court.*] Where the whole estate and effects of an intestate shall not exceed in value the sum of one hundred pounds, his widow or any one or more of his children, provided such widow or children respectively shall reside at a distance exceeding three miles from the Registry of the Court of Probate having jurisdiction in the matter, may apply to the registrar of the county court within the district of which the intestate had his fixed place of abode at the time of his death, and the said registrar shall fill up the usual papers required by the Court of Probate to lead to a grant of letters of administration of the estate and effects of the said intestate, and shall swear the applicant and attest the execution of the administration bond according to the practice of the Court of Probate, and shall then transmit the said papers by post to the registrar of the Court of Probate having jurisdiction in the matter, who shall in due course make out and seal the letters of administration of the estate and effects of the said intestate, and transmit them by post to the said registrar of the county court, to be by him delivered to the party so applying for the same, without the payment of any fee for the same save as is provided by this Act.

2. *Identity of person may be required.*] The registrar of the county court may require such proof as he may think

sufficient to establish the identity and relationship of the applicant.

3. *Registrar may refuse to take affidavit.*] If the registrar of the county court has reason to believe that the whole estate and effects of which the intestate died possessed exceeded in value one hundred pounds, he shall refuse to proceed with the application until he is satisfied as to the real value thereof.

4. *Registrars may exercise power of Commissioners of Court of Probate.*] All registrars of county courts shall for the purposes of this Act have power and are hereby authorised to administer oaths, and to take declarations and affirmations, and to exercise any other powers which can be exercised by Commissioners of the Court of Probate. In the necessary absence of the registrar of the county court, applicants may be sworn and execute any necessary documents at the office of the said registrar before any Commissioner of the Court of Probate.

5. *Power to frame rules, orders, &c.*] Any rules and orders and tables of fees requisite for carrying this Act into operation shall be framed and may from time to time be altered by the judge of the Court of Probate, subject as regards the tables of fees to the approval of the Commissioners of Her Majesty's Treasury; and such proportions of the said fees as the said judge, with such approval as aforesaid, shall think proper, may be made payable to the registrars of the county courts acting in the said matters, but the total amount to be charged to applicants shall not in any one case exceed the sums mentioned in the schedule to this Act.

6. *Not to affect duty on administration.*] Provided always, that nothing herein contained shall be construed to affect any duty now payable on letters of administration.

7. *Application of Act to Ireland.*] The provisions of this Act shall apply to Ireland, subject to the modifications following; (that is to say,)

The term the "registrar of the county court" shall be construed to mean the "registrar of the civil bill court."

The term "Court of Probate" shall be construed to mean the "Court of Probate in Dublin."

SCHEDULE.

Where the whole estate and effects of the intestate shall not exceed in value twenty pounds, the sum of five shillings; and where the whole estate and effects shall exceed in value twenty pounds, the sum of five shillings, and the further sum of one shilling for every ten pounds or fraction of ten pounds by which the value shall exceed twenty pounds.

CAP. LIII.

An Act to make better provision respecting certain sums payable to Schoolmasters of Highland Schools under the Act of the session of the first and second years of the reign of Her present Majesty, chapter eighty-seven, intituled "An Act to facilitate the foundation and endowment of additional Schools in Scotland."

[28th July, 1873.]

CAP. LIV.

An Act to raise the sum of one million six hundred thousand pounds sterling by Exchequer Bonds for the service of the year ending on the thirty-first day of March, one thousand eight hundred and seventy-four.

[28th July, 1873.]

CAP. LV.

An Act to amend the Medical Acts so far as relates to the University of London. [28th July, 1873.]

CAP. LVI.

An Act to reduce the Limit of the available Balance of the Treasury Chest Fund. [28th July, 1873.]

CAP. LVII.

An Act to make provision for the Redemption of divers permanent Charges on the Consolidated Fund and on the Votes of Parliament. [28th July, 1873.]

CAP. LVIII.

An Act for making provision for facilitating the Manœuvres of Troops to be assembled during the ensuing Autumn.
[28th July, 1873.]

CAP. LIX.

An Act for regulating and extending the Jurisdiction in matters connected with the Slave Trade of the Vice-Admiralty Court at Aden, and of Her Majesty's Consuls under Treaties with the Sovereigns of Zanzibar, Muscat, and Madagascar, and under future Treaties.
[5th August, 1873.]

CAP. LX.

An Act to amend the Extradition Act, 1870.
[5th August, 1873.]

Be it enacted, &c., as follows:

1. *Construction of Act and short title.* 33 & 34 Vict. c. 52.] This Act shall be construed as one with the Extradition Act, 1870 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873.

2. *Explanation of sect. 6 of 33 & 34 Vict. c. 52.* Whereas by section six of the principal Act it is enacted as follows: "Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any Court of Her Majesty's dominions over that crime."

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

A crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly.

3. *Liability of accessories to be surrendered.* Whereas a person who is accessory before or after the fact, or counsels, procures, commands, aids, or abets the commission of any indictable offence, is by English law liable to be tried and punished as if he were the principal offender, but doubts have arisen whether such person as well as the principal offender can be surrendered under the principal Act, and it is expedient to remove such doubts; it is therefore hereby declared that—

Every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed for the purposes of the principal Act and this Act to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

4. *Explanation of sect. 14 of 33 & 34 Vict. c. 52 as to statements on oath including affirmations.* Be it declared, that the provisions of the principal Act relating to depositions and statements on oath taken in a foreign state, and copies of such original depositions and statements, do and shall extend to affirmations taken in a foreign state, and copies of such affirmations.

5. *Power of taking evidence in United Kingdom for foreign criminal matters.* A Secretary of State may, by order under his hand and seal, require a police magistrate or a justice of the peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign state; and the police magistrate or justice of the peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify

at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled for the purposes of this section, to attend and give evidence and answer questions and produce documents, in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

Every person who wilfully gives false evidence before a police magistrate or justice of the peace under this section shall be guilty of perjury.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

6. *Explanation of sect. 16 of 33 & 34 Vict. c. 52.* The jurisdiction conferred by section sixteen of the principal Act on a stipendiary magistrate, and a sheriff or sheriff substitute shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the police magistrate.

7. *Explanation of diplomatic representative and consul.* For the purposes of the principal Act and this Act a diplomatic representative of a foreign state shall be deemed to include any person recognised by the Secretary of State as a consul-general of that state, and a consul or vice-consul shall be deemed to include any person recognised by the governor of a British possession as a consular officer of a foreign state.

8. *Addition to list of crimes in schedule.* The principal Act shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act.

SCHEDULE.

LIST OF CRIMES.

The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act.

Kidnapping and false imprisonment.

Perjury, and subornation of perjury, whether under common or statute law.

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, "To consolidate and amend the statute law of England and Ireland relating to malicious injuries to property," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, "To consolidate and amend the statute law of England and Ireland, relating to indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine "To consolidate and amend the statute law of the United Kingdom against offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, "To consolidate and amend the statute law of England and Ireland relating to offences against the person," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act.

CAP. LXI.

An Act to explain and amend the Crown Private Estates Act, 1862. [5th August, 1873.]

CAP. LXII.

An Act to amend section twenty-four of the Public Schools Act, 1868, with respect to the property of Eton College. [5th August, 1873.]

CAP. LXIII.

An Act to amend the Law relating to Law Agents practising in Scotland. [5th August, 1873.]

CAP. LXIV.

An Act for amending the Ecclesiastical Commissioners Acts, 1840 and 1850, and for other purposes. [5th August, 1873.]

4 & 5 Anne, c. xxxii. (Private).] Whereas by the Lichfield Chapter Act, 1706, the rectory of Tatenhill, otherwise Tattenhill, in the county of Stafford, in the diocese of Lichfield (of the perpetual advowson whereof Her Majesty was seised in right of the Duchy of Lancaster) was annexed, as in the said Act stated, to the deanery of the cathedral church of Lichfield, in consideration of the small income arising to the dean of Lichfield out of the revenue of the church at Lichfield, and on condition that the dean of Lichfield and his successors should make such allowance to a curate or curates for the said parish as the bishop should for the time being appoint:

3 & 4 Vict. c. 113, s. 60.] And whereas by the Ecclesiastical Commissioners Act, 1840, all the estate and interest which the holder of any deanery had in any lands or endowments whatsoever annexed to such deanery, and enjoyed by the holder of such deanery separately and in addition to his share of the corporate revenues of the chapter, were, after the next avoidance of such deanery, vested in the Ecclesiastical Commissioners for England:

13 & 14 Vict. c. 94, s. 19.] And whereas it is provided by the Ecclesiastical Commissioners Act, 1850, to the effect that no dean of any cathedral or collegiate church appointed after the tenth of April one thousand eight hundred and fifty should hold with his deanery any benefice not situate within the city or town of the cathedral or collegiate church in which he was dean:

And whereas the rectory of Tatenhill is not situate within the city of Lichfield.

3 & 4 Vict. c. 113, s. 66. 4 & 5 Vict. c. 39, s. 20.] And whereas the Ecclesiastical Commissioners are required by an Order in Council, dated the fifteenth day of June, one thousand eight hundred and fifty-two, and made in pursuance of the Ecclesiastical Commissioners Act, 1840, and the Ecclesiastical Commissioners Act, 1841, to pay out of their common fund annual sums in order to make up the average annual receipts of the dean of Lichfield from the divisible corporate revenues of the chapter of Lichfield to an income of one thousand pounds:

And whereas it has been decided by the Court of Common Pleas that the above-recited enactments of the Ecclesiastical Commissioners Act, 1840, and the Ecclesiastical Commissioners Act, 1850, do not extend to the rectory of Tatenhill, with its lands and endowments, and it is expedient so to extend the same and to sever the said rectory from the deanery of Lichfield:

Be it therefore enacted, &c., as follows:

1. Application of 3 & 4 Vict. c. 113, s. 50, and 13 & 14 Vict. c. 94, s. 19, to rectory of Tatenhill, and severance of rectory from deanery of Lichfield.] Upon the avoidance of the deanery of Lichfield which happens next after the passing of this Act, the provisions of the Ecclesiastical Commissioners Act, 1840, and the Ecclesiastical Commissioners Act, 1850, and the enactments amending the same, shall apply to the lands and endowments of the rectory of Tatenhill as if the same were lands and endowments annexed to the deanery of Lichfield within the meaning of section fifty of the Ecclesiastical Commissioners Act, 1840, above recited; and such rectory shall be severed from the deanery of Lichfield, and the perpetual advowson thereof shall be vested in Her Majesty, her heirs and successors.

2. Scheme for carrying severance into effect.] The Ecclesiastical Commissioners for England (in this Act referred to as the Commissioners), with the consent in writing of two of the Commissioners of Her Majesty's Treasury and of the Chancellor of the Duchy of Lancaster for the time being on behalf of Her Majesty, may from time to time lay before Her Majesty in Council schemes for carrying into effect this Act and making the arrangements consequential on the severance of the rectory of Tatenhill from the deanery of Lichfield, and for making out of the lands and endowments of such rectory proper provision for the spiritual duties thereof, and of any new ecclesiastical parish or district formed either before or after the passing of this Act either wholly or partially out of the parish of Tatenhill, and for transferring to the incumbent of such rectory or new ecclesiastical parish any property for the purpose of the endowment thereof, and for making such incidental provisions as may be necessary for carrying into effect any of the above-mentioned objects, so nevertheless that the glebe and tithes of the said rectory shall be applied for the benefit of the said parish of Tatenhill and the ecclesiastical districts formed or to be formed out of such parish.

Such scheme may also, with the consent in writing of the person who is dean of Lichfield at the passing of this Act, direct that the provisions of such scheme, or any of them, and the severance of the rectory from the deanery, shall take effect either wholly or partly at any earlier date than the next avoidance of such deanery, and may provide for the same so taking effect upon the terms and conditions contained in the scheme, and the same shall accordingly take effect as if the deanery had been avoided; but, save as aforesaid, a scheme under this section shall not have any effect until the avoidance of the deanery of Lichfield which happens next after the passing of this Act.

3. Repeal of part of proviso of sect. 51 of Ecclesiastical Commissioners Act, 1840.] Whereas by section fifty-one of the Ecclesiastical Commissioners Act, 1840, certain provisions were made with respect to prebends, dignities, and offices in cathedral churches in England subject to the following proviso: Provided always, that nothing herein contained shall in any manner apply to or affect any dignity, office, or prebend which is permanently annexed to any bishopric, archdeaconry, professorship, or lectureship, or to any school or the mastership thereof, or the prebends of Burgham, Bursalis, Exceit, and Wyndham in the cathedral church of Chichester; and it is expedient to repeal part of the said proviso: Be it therefore enacted, that so much of the said proviso in section fifty-one of the Ecclesiastical Commissioners Act, 1840, as relates to any dignity, office, or prebend which is permanently annexed to any bishopric shall be repealed as from the avoidance of the same bishopric which happens next after the passing of this Act, or as from any earlier date at which the bishop, by an instrument in writing under his hand, registered in the registry of the diocese of such bishopric, signifies his assent that such repeal shall take effect so far as regards his bishopric; and when such repeal takes effect (in the case of any bishopric) the said dignity, office, or prebend shall be severed from the bishopric, and shall be subject to the provisions of the Ecclesiastical Commissioners Act, 1840, and the Acts amending the same relating to non-residential prebends.

4. Order in Council confirming scheme to be made, &c., under 3 & 4 Vict. c. 113, ss. 84 to 89.] Sections eighty-four to eighty-nine (both inclusive) of the Ecclesiastical Commissioners Act, 1840 (which relate to the making, publishing, and registering of an Order in Council for ratifying a scheme, and to the laying the same before Parliament), shall apply to any scheme made under this Act, in the same manner as if they were herein enacted.

5. Order to effect transfer without conveyance. 31 & 32 Vict. c. 114, s. 6.] After the date of the publication of an Order in Council ratifying any scheme made in pursuance of this Act, or after any later date at which such scheme is by this Act directed to take effect, and without any further conveyance or act in the law, the property expressed to be thereby transferred shall (so far as the same can be vested by this Act) vest in the transferees and their successors, and (so far as the same cannot be so vested) shall be deemed to be held in trust for the transferees and their successors; subject nevertheless to the rights and liabilities affecting the same to which

persons other than the Commissioners or the dean of Lichfield are entitled, except so far as any such persons assent in writing to the scheme.

6. *Short titles of Acts.*] The Acts mentioned in the

schedule to this Act are in this Act referred to and may be cited by the short titles set opposite their names, and this Act may be cited as the Ecclesiastical Commissioners Act, 1873.

SCHEDULE.

Session and Chapter.	Title.	Short Title.
4 & 5 Anne, c. xxxii. (Private).	An Act for augmenting the number of canons residentiary in the cathedral church of Lichfield, and for improving the deanery and prebends of the said cathedral.	The Lichfield Chapter Act, 1706.
3 & 4 Vict. c. 113.	An Act to carry into effect, with certain modifications, the Fourth Report of the Commissioners of Ecclesiastical Duties and Revenues.	The Ecclesiastical Commissioners Act, 1840.
4 & 5 Vict. c. 39.	An Act to explain and amend two several Acts relating to the Ecclesiastical Commissioners for England.	The Ecclesiastical Commissioners Act, 1841.
13 & 14 Vict. c. 94.	An Act to amend the Acts relating to the Ecclesiastical Commissioners.	The Ecclesiastical Commissioners Act, 1850.
23 & 24 Vict. c. 124.	An Act further to amend the Acts relating to the Ecclesiastical Commissioners, and the Act concerning the management of episcopal and caputal estates in England.	The Ecclesiastical Commissioners Act, 1860.

CAP. LXV.

An Act to regulate the Summoning of Grand Juries in the Court of Queen's Bench in Ireland.

[5th August, 1873.]

CAP. LXVI.

An Act for the constitution of a Supreme Court, and for other purposes relating to the better Administration of Justice in England; and to authorise the transfer to the Appellate Division of such Supreme Court of the Jurisdiction of the Judicial Committee of Her Majesty's Privy Council.

[5th August, 1873.]

Whereas it is expedient to constitute a Supreme Court, and to make provision for the better administration of justice in England:

And whereas it is also expedient to alter and amend the law relating to the Judicial Committee of Her Majesty's Privy Council:

Be it enacted, &c., as follows:

Preliminary.

1. *Short title.*] This Act may be cited for all purposes as the "Supreme Court of Judicature Act, 1873."

2. *Commencement of Act.*] This Act, except any provision thereof which is declared to take effect on the passing of this Act, shall commence and come into operation on the second day of November 1874.

PART I.

Constitution and Judges of Supreme Court.

3. *Union of existing Courts into one Supreme Court.*] From and after the time appointed for the commencement of this Act, the several Courts hereinafter mentioned (that is to say), The High Court of Chancery of England, the Court of Queen's Bench, the Court of Common Pleas at Westminster, the Court of Exchequer, the High Court of Admiralty, the Court of Probate, the Court for Divorce and Matrimonial Causes, and the London Court of Bankruptcy, shall be united and consolidated together, and shall constitute, under and subject to the provisions of this Act one Supreme Court of Judicature in England.

4. *Division of Supreme Court into a Court of original and a Court of appellate jurisdiction.*] The said Supreme Court shall consist of two permanent Divisions, one of which, under the name of "Her Majesty's High Court of Justice," shall have and exercise original jurisdiction, with such appellate jurisdiction from inferior Courts as is hereinafter mentioned, and the other of which, under the name of "Her Majesty's Court of Appeal," shall have and exercise appellate jurisdiction, with such original jurisdiction as hereinafter mentioned as may be incident to the determination of any appeal.

5. *Constitution of High Court of Justice.*] Her Majesty's High Court of Justice shall be constituted as follows:—The first Judges thereof shall be the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, the Lord Chief Baron of the Exchequer, the several Vice-Chancellors of the High Court of Chancery, the Judge of the Court of Probate and of the Court for Divorce and Matrimonial Causes, the several Puisne Justices of the Court of Queen's Bench and Common Pleas respectively, the several Junior Barons of the Court of Exchequer, and the Judge of the High Court of Admiralty, except such, if any, of the aforesaid Judges as shall be appointed ordinary Judges of the Court of Appeal.

Subject to the provisions hereinafter contained, whenever the office of a Judge of the said High Court shall become vacant, a new Judge may be appointed thereto by Her Majesty, by Letters Patent. All persons to be hereafter appointed to fill the places of the Lord Chief Justice of England, and Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron, and their successors respectively, shall continue to be appointed to the same respective offices, with the same precedence, and by the same respective titles, and in the same manner, respectively, as heretofore. Every Judge who shall be appointed to fill the place of any other Judge of the said High Court of Justice shall be styled in his appointment "Judge of Her Majesty's High Court of Justice," and shall be appointed in the same manner in which the Puisne Justices and Junior Barons of the Superior Courts of Common Law have been heretofore appointed: Provided always, that if at the commencement of this Act the number of Puisne Justices and Junior Barons who shall become Judges of the said High Court shall exceed twelve in the whole, no new Judge of the said High Court shall be appointed in the place of any such Puisne Justice or Junior Baron who shall die or resign while such whole number shall exceed twelve, it being intended that the permanent number of Judges of the said High Court shall not exceed twenty-one.

All the Judges of the said Court shall have in all respects, save as in this Act is otherwise expressly provided, equal power, authority, and jurisdiction; and shall be addressed in the manner which is now customary in addressing the Judges of the Superior Courts of Common Law.

The Lord Chief Justice of England for the time being shall be President of the said High Court of Justice in the absence of the Lord Chancellor.

6. *Constitution of Court of Appeal.*] Her Majesty's Court of Appeal shall be constituted as follows:—There shall be five ex officio Judges thereof, and also so many ordinary Judges (not exceeding nine at any one time) as Her Majesty shall from time to time appoint. The ex officio Judges shall be the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer. The first ordinary Judges of the said Court

shall be the existing Lords Justices of Appeal in Chancery, the existing salaried Judges of the Judicial Committee of Her Majesty's Privy Council, appointed under the "Judicial Committee Act, 1871," and such three other persons as her Majesty may be pleased to appoint by Letters Patent; such appointment may be made either within one month before or at any time after the day appointed for the commencement of this Act, but if made before shall take effect at the commencement of this Act.

Besides the said ex officio Judges and ordinary Judges, it shall be lawful for her Majesty (if she shall think fit), from time to time to appoint, under her Royal Sign Manual, as additional Judges of the Court of Appeal, any persons who, having held in England the office of a Judge of the Superior Courts of Westminster hereby united and consolidated, or of her Majesty's Supreme Court hereby constituted, or in Scotland the office of Lord Justice General or Lord Justice Clerk, or in Ireland the office of Lord Chancellor or Lord Justice of Appeal, or in India the office of Chief Justice of the High Court of Judicature at Fort William in Bengal, or Madras, or Bombay, shall respectively signify in writing their willingness to serve as such additional Judges in the Court of Appeal. No such additional Judge shall be deemed to have undertaken the duty of sitting in the Court of Appeal when prevented from so doing by attendance in the House of Lords, or on the discharge of any other public duty, or by any other reasonable impediment.

The ordinary and additional Judges of the Court of Appeal shall be styled Lords Justices of Appeal. All the Judges of the said Court shall have, in all respects, save as in this Act is otherwise expressly mentioned, equal power, authority, and jurisdiction.

Whenever the office of an ordinary Judge of the Court of Appeal becomes vacant, a New Judge may be appointed thereto by her Majesty by Letters Patent.

The Lord Chancellor for the time being shall be President of the Court of Appeal.

7. *Vacancies by resignation of Judges and effect of vacancies generally.* The office of any Judge of the said High Court of Justice, or of the said Court of Appeal, may be vacated by resignation in writing, under his hand, addressed to the Lord Chancellor, without any deed of surrender; and the office of any Judge of the said High Court shall be vacated by his being appointed a Judge of the said Court of Appeal. The said Courts respectively shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any Judge of either of such Courts.

8. *Qualifications of Judges. Not required to be Serjeants-at-Law.* Any barrister of not less than ten years standing shall be qualified to be appointed a Judge of the said High Court of Justice; and any person who if this Act had not passed would have been qualified by law to be appointed a Lord Justice of the Court of Appeal in Chancery, or has been a Judge of the High Court of Justice of not less than one year's standing, shall be qualified to be appointed an ordinary Judge of the said Court of Appeal: Provided, that no person appointed a Judge of either of the said Courts shall henceforth be required to take, or to have taken, the degree of Serjeant-at-Law.

9. *Tenure of office of Judges, and oaths of office. Judges not to sit in the House of Commons.* All the Judges of the High Court of Justice, and of the Court of Appeal respectively, shall hold their offices for life, subject to a power of removal by her Majesty, on an address presented to her Majesty by both Houses of Parliament. No Judge of either of the said Courts shall be capable of being elected to or of sitting in the House of Commons. Every Judge of either of the said Courts (other than the Lord Chancellor) when he enters on the execution of his office, shall take, in the presence of the Lord Chancellor, the oath of allegiance, and judicial oath as defined by the Promissory Oaths Act, 1868. The oaths to be taken by the Lord Chancellor shall be the same as heretofore.

10. *Precedence of Judges.* The ex officio Judges of the Court of Appeal shall rank in the Supreme Court in the order of their present respective official precedence. The other Judges (whether ordinary or additional) of the Court of Appeal shall rank in the Supreme Court, if Peers or Privy Counsellors, in the order of their respective precedence; and the rest of the Judges of the Court of Appeal shall rank according to the priority of their respective appointments to be Judges thereof.

The Judges of the High Court of Justice who are not also Judges of the Court of Appeal, shall rank next after the Judges of the Court of Appeal, and among themselves (subject to the provisions hereinafter contained as to existing Judges) according to the priority of their respective appointments.

11. *Saving of rights and obligations of existing Judges.* Every existing Judge, who is by this Act made a Judge of the High Court of Justice or an ordinary Judge of the Court of Appeal, shall, as to tenure of office, rank, title, salary, pension, patronage, and powers of appointment or dismissal, and all other privileges and disqualifications, remain in the same condition as if this Act had not passed; and, subject to the change effected in their jurisdiction and duties by or in pursuance of the provisions of this Act, each of the said existing Judges shall be capable of performing and liable to perform all duties which he would have been capable of performing or liable to perform in pursuance of any Act of Parliament, law, or custom if this Act had not passed. No Judge appointed before the passing of this Act shall be required to act under any Commission of Assize, Nisi Prius, Oyer and Terminer, or Gaol Delivery, unless he was soliable by usage or custom at the commencement of this Act.

Services as a Judge in the High Court of Justice, or in the Court of Appeal, shall, in the case of an existing Judge, for the purpose of determining the length of service entitling such Judge to a pension on his retirement, be deemed to be a continuation of his service in the Court of which he is a Judge at the time of the commencement of this Act.

12. *Provisions for extraordinary duties of Judges of the former Courts.* If in any case not expressly provided for by this Act, a liability to any duty, or any authority or power, not incident to the administration of justice in any Court, whose jurisdiction is transferred by this Act to the High Court of Justice, shall have been imposed or conferred by any statute, law, or custom upon the Judges or any Judge of any of such Courts, save as hereinafter mentioned, every Judge of the said High Court shall be capable of performing and exercising, and shall be liable to perform and empowered to exercise every such duty, authority, and power, in the same manner as if this Act had not passed, and as if he had been duly appointed the successor of a Judge liable to such duty, or possessing such authority or power, before the passing of this Act. Any such duty, authority, or power, imposed or conferred by any statute, law, or custom, in any such case as aforesaid, upon the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, or the Lord Chief Baron, shall continue to be performed and exercised by them respectively, and by their respective successors, in the same manner as if this Act had not passed.

13. *Salaries of future Judges.* Subject to the provisions in this Act contained with respect to existing Judges, there shall be paid the following salaries, which shall in each case include any pension granted in respect of any public office previously filled by him, to which the Judge may be entitled;

To the Lord Chancellor, the sums hitherto payable to him;

To the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer the same annual sums which the holders of those offices now respectively receive;

To each of the ordinary Judges of the Court of Appeal; and,

To each of the other Judges of the High Court of Justice, the sum of five thousand pounds a year.

No salary shall be payable to any additional Judge of the Court of Appeal appointed under this Act; but nothing in this Act shall in any way prejudice the right of any such additional Judge to any pension to which he may be by law entitled.

14. *Retiring pensions of future Judges of High Court of Justice, and ordinary Judges of Court of Appeal.* Her Majesty may, by Letters Patent, grant to any Judge of the High Court of Justice, or to any ordinary Judge of the Court of Appeal who has served for fifteen years as a Judge in such Courts, or either of them, or who is disabled by permanent infirmity from the performance of the duties of his office, a pension, by way of annuity, to be continued during his life:

In the case of the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer, the same amount of pension which at present might under the same circumstances be granted to the holder of the same office:

In the case of any ordinary Judge of the Court of Appeal or any other Judge of the High Court of Justice, the same amount of pension which at present might under the same circumstances be granted to a Puisne Justice of the Court of Queen's Bench.

15. *Salaries and pensions how to be paid.*] Subject to the provisions in this Act contained with respect to existing Judges, the salaries, allowances, and pensions payable to the Judges of the High Court of Justice, and the ordinary Judges of the Court of Appeal respectively, shall be charged on and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, or the growing produce thereof: such salaries and pensions shall grow due from day to day, but shall be payable to the persons entitled thereto, or to their executors or administrators, on the usual quarterly days of payment, or at such other periods in every year as the Treasury may from time to time determine.

PART II.

Jurisdiction and Law.

16. *Jurisdiction of High Court of Justice.*] The High Court of Justice shall be a Superior Court of Record, and, subject as in this Act mentioned, there shall be transferred to and vested in the said High Court of Justice the jurisdiction which, at the commencement of this Act, was vested in, or capable of being exercised by, all or any of the Courts following: (that is to say,)

- (1.) The High Court of Chancery, as a Common Law Court as well as a Court of Equity, including the jurisdiction of the Master of the Rolls, as a Judge or Master of the Court of Chancery, and any jurisdiction exercised by him in relation to the Court of Chancery as a Common Law Court;
- (2.) The Court of Queen's Bench;
- (3.) The Court of Common Pleas at Westminster;
- (4.) The Court of Exchequer, as a Court of Revenue, as well as a Common Law Court;
- (5.) The High Court of Admiralty;
- (6.) The Court of Probate;
- (7.) The Court for Divorce and Matrimonial Causes;
- (8.) The London Court of Bankruptcy;
- (9.) The Court of Common Pleas at Lancaster;
- (10.) The Court of Pleas at Durham;
- (11.) The Courts created by Commissions of Assize, of Oyer and Terminer, and of Gaol Delivery, or any of such Commissions:

The jurisdiction by this Act transferred to the High Court of Justice shall include (subject to the exceptions hereinafter contained) the jurisdiction which, at the commencement of this Act, was vested in, or capable of being exercised by, all or any one or more of the Judges of the said Courts, respectively, sitting in Court or Chambers, or elsewhere, when acting as Judges or a Judge, in pursuance of any statute, law, or custom, and all powers given to any such Court, or to any such Judges or Judge, by any statute and also all ministerial powers, duties, and authorities, incident to any and every part of the jurisdictions so transferred.

17. *Jurisdiction not transferred to High Court.*] There shall not be transferred to or vested in the said High Court of Justice, by virtue of this Act,—

- (1.) Any appellate jurisdiction of the Court of Appeal in Chancery, or of the same Court sitting as a Court of Appeal in Bankruptcy;
- (2.) Any jurisdiction of the Court of Appeal in Chancery of the County Palatine of Lancaster;
- (3.) Any jurisdiction usually vested in the Lord Chancellor or in the Lords Justices of Appeal in Chancery, or either of them, in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind;
- (4.) Any jurisdiction vested in the Lord Chancellor in relation to grants of Letters Patent, or the issue

of commissions or other writings, to be passed under the Great Seal of the United Kingdom:

- (5.) Any jurisdiction exercised by the Lord Chancellor in right of or on behalf of Her Majesty as visitor of any College, or of any charitable or other foundation;
- (6.) Any jurisdiction of the Master of the Rolls in relation to records in London or elsewhere in England.

18. *Jurisdiction transferred to Court of Appeal.*] The Court of Appeal established by this Act shall be a Superior Court of Record, and there shall be transferred to and vested in such Court all jurisdiction and powers of the Courts following: (that is to say,)

- (1.) All jurisdiction and powers of the Lord Chancellor and of the Court of Appeal in Chancery, in the exercise of his and its appellate jurisdiction, and of the same Court as a Court of Appeal in bankruptcy;
- (2.) All jurisdiction and powers of the Court of Appeal in Chancery of the County Palatine of Lancaster, and all jurisdiction and powers of the Chancellor of the Duchy and County Palatine of Lancaster when sitting alone or apart from the Lords Justices of Appeal in Chancery as a Judge of rehearing or appeal from decrees or orders of the Court of Chancery of the County Palatine of Lancaster;
- (3.) All jurisdiction and powers of the Court of the Lord Warden of the Stannaries assisted by his assessors, including all jurisdiction and powers of the said Lord Warden when sitting in his capacity of Judge;
- (4.) All jurisdiction and powers of the Court of Exchequer Chamber;
- (5.) All jurisdiction vested in or capable of being exercised by her Majesty in Council, or the Judicial Committee of her Majesty's Privy Council, upon appeal from any judgment or order of the High Court of Admiralty, or from any order in lunacy made by the Lord Chancellor, or any other person having jurisdiction in lunacy.

19. *Appeals from High Court.*] The said Court of Appeal shall have jurisdiction and power to hear and determine Appeals from any judgment or order, save as hereinafter mentioned, of her Majesty's High Court of Justice, or of any Judges or Judge thereof, subject to the provisions of this Act, and to such Rules and Orders of Court for regulating the terms and conditions on which such Appeals shall be allowed, as may be made pursuant to this Act.

For all the purposes of and incidental to the hearing and determination of any appeal within its jurisdiction, and the amendment, execution, and enforcement of any judgment or order made on any such appeal, and for the purpose of every other authority expressly given to the Court of Appeal by this Act, the said Court of Appeal shall have all the power, authority, and jurisdiction by this Act vested in the High Court of Justice.

20. *No appeal from High Court or Court of Appeal to House of Lords, or Judicial Committee.*] No error or appeal shall be brought from any judgment or order of the High Court of Justice, or of the Court of Appeal, nor from any judgment or order, subsequent to the commencement of this Act, of the Court of Chancery of the County Palatine of Lancaster, to the House of Lords or to the Judicial Committee of Her Majesty's Privy Council; but nothing in this Act shall prejudice any right existing at the commencement of this Act to prosecute any pending writ of error or appeal, or to bring error or appeal to the House of Lords or to Her Majesty in Council, or to the Judicial Committee of the Privy Council, from any prior judgment or order of any Court whose jurisdiction is hereby transferred to the High Court of Justice or to the Court of Appeal.

21. *Power to transfer jurisdiction of Judicial Committee by Order in Council.*] It shall be lawful for Her Majesty, if she shall think fit, at any time hereafter by Order in Council to direct that all Appeals and Petitions whatsoever to Her Majesty in Council which according to the laws now in force ought to be heard by or before the Judicial Committee of Her Majesty's Privy Council, shall, from and after a time to be fixed by such Order, be referred for hearing to and be heard by Her Majesty's Court of Appeal; and from and

after the time fixed by such Order, all such Appeals and Petitions shall be referred for hearing to and be heard by the said Court of Appeal accordingly, and shall not be heard by the said Judicial Committee; and for all the purposes of and incidental to the hearing of such Appeals or Petitions, and the reports to be made to Her Majesty thereon, and all Orders thereon to be afterwards made by Her Majesty in Council, and also for all purposes of and incidental to the enforcement of any such Orders as may be made by the said Court of Appeal or by Her Majesty, pursuant to this section (but not for any other purpose), all the power, authority, and jurisdiction now by law vested in the said Judicial Committee shall be transferred to and vested in the said Court of Appeal.

The Court of Appeal, when hearing any appeals in Ecclesiastical Causes which may be referred to it in manner aforesaid, shall be constituted of such and so many of the Judges thereof, and shall be assisted by such assessors being Archbishops or Bishops of the Church of England, as Her Majesty, by any General Rules made with the advice of the Judges of the said Court, or any five of them (of whom the Lord Chancellor shall be one), and of the Archbishops and Bishops who are members of Her Majesty's Privy Council, or any two of them (and which General Rules shall be made by Order in Council), may think fit to direct: Provided that such rules shall be laid before each House of Parliament within forty days of the making of the same, if Parliament be then sitting, or if not, then within forty days of the commencement of the then next ensuing session; and if an address is presented to her Majesty by either House of Parliament within the next subsequent forty days on which the said House shall have sat, praying that any such rules may be annulled, Her Majesty may thereupon by Order in Council annul the same: and the rules so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

22. *Transfer of pending business.* From and after the commencement of this Act the several jurisdictions which by this Act are transferred to and vested in the said High Court of Justice and the said Court of Appeal respectively shall cease to be exercised, except by the said High Court of Justice and the said Court of Appeal respectively, as provided by this Act; and no further or other appointment of any Judge to any Court whose jurisdiction is so transferred shall be made except as provided by this Act: Provided, that in all causes, matters, and proceedings whatsoever which shall have been fully heard, and in which judgment shall not have been given, or having been given shall not have been signed, drawn up, passed, entered, or otherwise perfected at the time appointed for the commencement of this Act, such judgment, decree, rule, or order may be given or made, signed, drawn up, passed, entered, or perfected respectively, after the commencement of this Act, in the name of the same Court, and by the same judges and officers, and generally in the same manner, in all respects as if this Act had not passed; and the same shall take effect, to all intents and purposes, as if the same had been duly perfected before the commencement of this Act; and every judgment, decree, rule, or order of any Court whose jurisdiction is hereby transferred to the said High Court of Justice or the said Court of Appeal, which shall have been duly perfected at any time before the commencement of this Act, may be executed and enforced, and, if necessary, amended or discharged by the said High Court of Justice and the said Court of Appeal respectively, in the same manner as if it had been a judgment, decree, rule, or order of the said High Court or of the said Court of Appeal; and all causes, matters, and proceedings whatsoever, whether Civil or Criminal, which shall be pending in any of the Courts whose jurisdiction is so transferred as aforesaid at the commencement of this Act, shall be continued and concluded, as follows (that is to say), in the case of proceedings in Error or on Appeal, or of proceedings before the Court of Appeal in Chancery, in and before Her Majesty's Court of Appeal; and, as to all other proceedings, in and before Her Majesty's High Court of Justice. The said Courts respectively shall have the same jurisdiction in relation to all such causes, matters, and proceedings as if the same had been commenced in the said High Court of Justice, and continued therein (or in the said Court of Appeal, as the case may be) down to the point at which

the transfer takes place; and, so far as relates to the form and manner of procedure, such causes, matters, and proceedings, or any of them, may be continued and concluded, in and before the said Courts respectively, either in the same or the like manner as they would have been continued and concluded in the respective Courts from which they shall have been transferred as aforesaid or according to the ordinary course of the said High Court of Justice and the said Court of Appeal respectively (so far as the same may be applicable thereto), as the said Courts respectively may think fit to direct.

23. *Rules as to exercise of jurisdiction.* The jurisdiction by this Act transferred to the said High Court of Justice and the said Court of Appeal respectively shall be exercised (so far as regards procedure and practice) in the manner provided by this Act, or by such Rules and Orders of Court as may be made pursuant to this Act; and where no special provision is contained in this Act or in any such Rules or Orders of Court with reference thereto, it shall be exercised as nearly as may be in the same manner as the same might have been exercised by the respective Courts from which such jurisdiction shall have been transferred, or by any of such Courts.

24. *Law and equity to be concurrently administered.* In every civil cause or matter commenced in the High Court of Justice law and equity shall be administered by the High Court of Justice and the Court of Appeal respectively according to the Rules following:

- (1.) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, which heretofore could only have been given by a Court of Equity, the said Courts respectively, and every Judge thereof, shall give to such plaintiff or petitioners such and the same relief as ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purpose properly instituted before the passing of this Act.
- (2.) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the said Courts respectively, and every Judge thereof, shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged; such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or the like purpose before the passing of this Act.
- (3.) The said Courts respectively, and every Judge thereof, shall also have power to grant to any defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading, and as the said Courts respectively, or any Judge thereof, might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any Rule of Court or any Order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the

same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim, as if he had been duly sued in the ordinary way by such defendant.

- (4.) The said Courts respectively, and every Judge thereof, shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognised and taken notice of the same in any suit or proceeding duly instituted therein before the passing of this Act.
- (5.) No cause or proceeding at any time pending in the High Court of Justice, or before the Court of Appeal, shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, if this Act had not passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto: Provided always, that nothing in this Act contained shall disable either of the said Courts from directing a stay of proceedings in any cause or matter pending before it if it shall think fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, if this Act had not passed, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any Judgment, Decree, Rule, or Order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the said Courts respectively, by motion in a summary way, for a stay of proceedings in such cause or matter, either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such Order as shall be just.
- (6.) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and to the other express provisions of this Act, the said Courts respectively, and every Judge thereof, shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations, and liabilities existing by the Common Law or by any custom, or created by any Statute, in the same manner as the same would have been recognised and given effect to if this Act had not passed by any of the Courts whose jurisdiction is hereby transferred to the said High Court of Justice.
- (7.) The High Court of Justice and the Court of Appeal respectively, in the exercise of the jurisdiction vested in them by this Act in every cause or matter pending before them respectively, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to them shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

25. *Rules of law upon certain points.*] And whereas it is expedient to take occasion of the union of the several Courts whose jurisdiction is hereby transferred to the said High Court of Justice to amend and declare the Law to be hereafter administered in England as to the matters next hereinafter mentioned: Be it enacted as follows:—

- (1.) *Administration of assets of insolvent estates.*] In the administration by the Court of the assets of any person who may die after the passing of this Act, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities, the

same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities proveable, and as to the valuation of annuities and future or contingent liabilities, respectively, as may be in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt; and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person may come in under the decree or order for the administration of such estate and make such claims against the same as they may respectively be entitled to by virtue of this Act.

- (2.) *Statutes of Limitation inapplicable to express trusts.*] No claim of a cestui que trust against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations.
- (3.) *Equitable waste.*] An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate.
- (4.) *Merger.*] There shall not, after the commencement of this Act, be any merger by operation of law only of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity.
- (5.) *Suits for possession of land by mortgagors.*] A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.
- (6.) *Assignment of debts and choses in action.*] Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing shall have been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be, and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not passed,) to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor: Provided always, that if the debtor, trustee, or other person liable in respect of such debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he think fit, pay the same into the High Court of Justice under and in conformity with the provisions of the Acts for the relief of trustees.
- (7.) *Stipulations not of the essence of contracts.*] Stipulations in contracts, as to time or otherwise, which would not before the passing of this Act have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all Courts the same construction and effect as they would have heretofore received in equity.
- (8.) *Injunctions and receivers.*] A mandamus or an injunction may be granted or a receiver appointed by an interlocutory Order of the Court in all cases in which it shall appear to the Court to be just or convenient that such order should be made; and any such Order may be made either unconditionally or

upon such terms and conditions as the Court shall think just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and whether the estates claimed by both or by either of the parties are legal or equitable.

- (9.) *Damages by collisions at sea.*] In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found to have been in fault, the rules hitherto in force in the Court of Admiralty, so far as they have been at variance with the rules in force in the Courts of Common Law, shall prevail.
- (10.) *Infants.*] In questions relating to the custody and education of infants the Rules of Equity shall prevail.
- (11.) *Cases of conflict not enumerated.*] Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the Rules of Equity and the Rules of the Common Law with reference to the same matter, the Rules of Equity shall prevail.

PART III.

Sittings and Distribution of Business.

26. *Abolition of terms.*] The Division of the legal year into terms shall be abolished so far as relates to the administration of justice; and there shall no longer be terms applicable to any sitting or business of the High Court of Justice, or of the Court of Appeal, or of any Commissioners to whom any jurisdiction may be assigned under this Act; but in all other cases in which, under the law now existing, the terms into which the legal year is divided are used as a measure for determining the time at or within which any act is required to be done, the same may continue to be referred to for the same or the like purpose, unless and until provision is otherwise made by any lawful authority. Subject to Rules of Court, the High Court of Justice and the Court of Appeal, and the Judges thereof respectively, or any such Commissioners as aforesaid, shall have power to sit and act, at any time, and at any place, for the transaction of any part of the business of such Courts respectively, or of such Judges or Commissioners, or for the discharge of any duty which by any Act of Parliament, or otherwise, is required to be discharged during or after term.

27. *Vacations.*] Her Majesty in Council may from time to time, upon any report or recommendation of the Judges by whose advice Her Majesty is hereinafter authorised to make rules before the commencement of this Act, and after the commencement of this Act upon any report or recommendation of the Council of Judges of the Supreme Court hereinafter mentioned, with the consent of the Lord Chancellor, make, revoke, or modify orders regulating the vacations to be observed by the High Court of Justice and the High Court of Appeal, and in the offices of the said Courts respectively; and any order in Council made pursuant to this section shall, so long as it continues in force, be of the same effect as if it were contained in this Act; and Rules of Court may be made for carrying the same into effect in the same manner as if such Order in Council were part of this Act. In the meantime and subject thereto, the said vacations shall be fixed in the same manner, and by the same authority, as if this Act had not passed. This section shall come into operation immediately upon the passing of this Act.

28. *Sittings in vacation.*] Provision shall be made by Rules of Court for the hearing in London or Middlesex, during vacation by Judges of the High Court of Justice and the Court of Appeal respectively, of all such applications as may require to be immediately or promptly heard.

29. *Jurisdiction of Judges of High Court on circuit.*] Her Majesty, by commission of assize or by any other commission, either general or special, may assign to any Judge or Judges of the High Court of Justice or other persons

usually named in commissions of assize, the duty of trying and determining within any place or district specially fixed for that purpose by such commission, any causes or matters, or any questions or issues of fact or of law, or partly of fact and partly of law, in any cause or matter depending in the said High Court, or the exercise of any civil or criminal jurisdiction capable of being exercised by the said High Court; and any commission so granted by Her Majesty shall be of the same validity as if it were enacted in the body of this Act; and any Commissioner or Commissioners appointed in pursuance of this section shall, when engaged in the exercise of any jurisdiction assigned to him or them in pursuance of this Act, be deemed to constitute a Court of the said High Court of Justice; and, subject to any restrictions or conditions imposed by Rules of Court and to the power of transfer, any party to any cause or matter involving the trial of a question or issue of fact, or partly of fact and partly of law, may, with the leave of the Judge or Judges to whom or to whose division the cause or matter is assigned, require the question or issue to be tried and determined by a Commissioner or Commissioners as aforesaid, or at sittings to be held in Middlesex or London as hereinafter in this Act mentioned, and such question or issue shall be tried and determined accordingly.

A cause or matter not involving any question or issue of fact may be tried and determined in like manner with the consent of all the parties thereto.

30. *Sittings for trial by jury in London and Middlesex.*] Subject to Rules of Court, sittings for the trial by jury of causes and questions or issues of fact shall be held in Middlesex and London, and such sittings shall, so far as is reasonably practicable, and subject to vacations, be held continuously throughout the year by as many Judges as the business to be disposed of may render necessary. Any Judge of the High Court of Justice sitting for the trial of causes and issues in Middlesex or London, at any place heretofore accustomed, or to be hereafter determined by Rules of Court, shall be deemed to constitute a Court of the said High Court of Justice.

31. *Divisions of the High Court of Justice.*] For the more convenient despatch of business in the said High Court of Justice (but not so as to prevent any Judge from sitting whenever required in any Divisional Court, or for any Judge of a different Division from his own), there shall be in the said High Court five Divisions consisting of such number of Judges respectively as hereinafter mentioned. Such five Divisions shall respectively include, immediately on the commencement of this Act, the several Judges following; (this is to say,)

- (1.) One Division shall consist of the following Judges; (that is to say,) The Lord Chancellor, who shall be President thereof, the Master of the Rolls, and the Vice-Chancellors of the Court of Chancery, or such of them as shall not be appointed ordinary Judges of the Court of Appeal;
- (2.) One other Division shall consist of the following Judges; (that is to say,) The Lord Chief Justice of England, who shall be President thereof, and such of the other Judges of the Court of Queen's Bench as shall not be appointed ordinary Judges of the Court of Appeal;
- (3.) One other Division shall consist of the following Judges; (that is to say,) The Lord Chief Justice of the Common Pleas, who shall be President thereof, and such of the other Judges of the Court of Common Pleas as shall not be appointed ordinary Judges of the Court of Appeal;
- (4.) One other Division shall consist of the following Judges; (that is to say,) The Lord Chief Baron of the Exchequer, who shall be President thereof, and such of the other Barons of the Court of Exchequer as shall not be appointed ordinary Judges of the Court of Appeal;
- (5.) One other Division shall consist of two Judges who, immediately on the commencement of this Act, shall be the existing Judge of the Court of Probate and of the Court for Divorce and Matrimonial Causes and the existing Judge of the High Court of Admiralty, unless either of them is appointed an ordinary Judge of the Court of Appeal. The existing Judge of the Court of Probate shall (unless so appointed) be the President of the said Division, and subject thereto the Senior Judge of the said

Division, according to the order of precedence under this Act, shall be President.

The said five Divisions shall be called respectively the Chancery Division, the Queen's Bench Division, the Common Pleas Division, the Exchequer Division, and the Probate, Divorce and Admiralty Division.

Any deficiency of the number of five Judges for constituting, in manner aforesaid, immediately on the commencement of this Act, any one or more of the Queen's Bench, Common Pleas, and Exchequer Divisions, may be supplied by the appointment, under Her Majesty's Royal Sign Manual, either before or after the time fixed for the commencement of this Act, of one of the Puisne Justices or Junior Barons of any superior Court of Common Law from which no Judge may be so appointed as aforesaid to the Court of Appeal, to be a Judge of any Division in which such deficiency would otherwise exist. And any deficiency of the number of three Vice-Chancellors or of the two Judges of the Probate and Admiralty Divisions at the time of the commencement of this Act may be supplied by the appointment of a new Judge in his place in the same manner as if a vacancy in such office had occurred after the commencement of this Act.

Any Judge of any of the said Divisions may be transferred by Her Majesty, under Her Royal Sign Manual, from one to another of the said Divisions.

Upon any vacancy happening among the Judges of the said High Court, the Judge appointed to fill such vacancy shall, subject to the provisions of this Act, and to any Rules of Court which may be made pursuant thereto, become a member of the same Division to which the Judge whose place has become vacant belonged.

32. *Power to alter Divisions by Order in Council.* Her Majesty in Council may from time to time, upon any report or recommendation of the Council of Judges of the Supreme Court hereinafter mentioned, order that any reduction or increase in the number of Divisions of the High Court of Justice, or in the number of the Judges of the said High Court who may be attached to any such Division, may, pursuant to such report or recommendation, be carried into effect; and may give all such further directions as may be necessary or proper for that purpose; and such Order may provide for the abolition on vacancy of the distinction of the offices of any of the following Judges, namely, the Chief Justice of England, the Master of the Rolls, the Chief Justice of the Common Pleas, and the Chief Baron of the Exchequer, which may be reduced, and of the salaries, pensions, and patronage attached to such offices, from the offices of the other Judges of the High Court of Justice, notwithstanding anything in this Act relating to the continuance of such offices, salaries, pensions, and patronage; but no such Order of Her Majesty in Council shall come into operation until the same shall have been laid before each House of Parliament for thirty days on which that House shall have sat, nor if, within such period of thirty days, an address is presented to Her Majesty by either House of Parliament, praying that the same may not come into operation. Any such Order, in respect whereof no such address shall have been presented to Her Majesty, shall, from and after the expiration of such period of thirty days, be of the same force and effect as if it had been herein expressly enacted: Provided always, that the total number of the Judges of the Supreme Court shall not be reduced or increased by any such Order.

33. *Rules of Court to provide for distribution of business.* All causes and matters which may be commenced in, or which shall be transferred by this Act to, the High Court of Justice, shall be distributed among the several Divisions and Judges of the said High Court, in such manner as may from time to time be determined by any Rules of Court, or Orders of Transfer, to be made under the authority of this Act; and in the meantime, and subject thereto, all such causes and matters shall be assigned to the said Divisions respectively, in the manner hereinafter provided. Every document by which any cause or matter may be commenced in the said High Court shall be marked with the name of the Division, or with the name of the Judge, to which or to whom the same is assigned.

34. *Assignment of certain business to particular Divisions of High Court, subject to Rules.* There shall be assigned (subject as aforesaid) to the Chancery Division of the said Court:

(1.) All causes and matters pending in the Court of Chancery at the commencement of this Act:

(2.) All causes and matters to be commenced after the commencement of this Act, under any Act of Parliament by which exclusive jurisdiction, in respect to such causes or matters, has been given to the Court of Chancery, or to any Judges or Judge thereof respectively, except Appeals from County Courts:

(3.) All causes and matters for any of the following purposes:

The administration of the estates of deceased persons;
The dissolution of partnerships or the taking of partnership or other accounts;
The redemption or foreclosure of mortgages;
The raising of portions, or other charges on land;
The sale and distribution of the proceeds of property subject to any lien or charge;
The execution of trusts, charitable or private;
The rectification, or setting aside, or cancellation of deeds or other written instruments;
The specific performance of contracts between vendors and purchasers of real estates, including contracts for leases;
The partition or sale of real estates;
The wardship of infants and the care of infants, estates.

There shall be assigned (subject as aforesaid) to the Queen's Bench Division of the said Court:

(1.) All causes and matters, civil and criminal, pending in the Court of Queen's Bench at the commencement of this Act:

(2.) All causes and matters, civil and criminal, which would have been within the exclusive cognizance of the Court of Queen's Bench in the exercise of its original jurisdiction, if this Act had not passed.

There shall be assigned (subject as aforesaid) to the Common Pleas Division of the said Court:

(1.) All causes and matters pending in the Court of Common Pleas at Westminster, the Court of Common Pleas at Lancaster, and the Court of Pleas at Durham, respectively, at the commencement of this Act:

(2.) All causes and matters which would have been within the exclusive cognizance of the Court of Common Pleas at Westminster, if this Act had not passed.

There shall be assigned (subject as aforesaid) to the Exchequer Division of the said Court:

(1.) All causes and matters pending in the Court of Exchequer at the commencement of this Act:

(2.) All causes and matters which would have been within the exclusive cognizance of the Court of Exchequer, either as a Court of Revenue or as a Common Law Court if this Act had not passed:

(3.) All matters pending in the London Court of Bankruptcy at the commencement of this Act:

(4.) All matters to be commenced after the commencement of this Act under any Act of Parliament by which exclusive jurisdiction in respect to such matters has been given to the London Court of Bankruptcy.

There shall be assigned (subject as aforesaid) to the Probate, Divorce, and Admiralty Division of the said High Court

(1.) All causes and matters pending in the Court of Probate, or in the Court for Divorce and Matrimonial Causes, or in the High Court of Admiralty, at the commencement of this Act:

(2.) All causes and matters which would have been within the exclusive cognizance of the Court of Probate, or the Court for Divorce and Matrimonial Causes, or of the High Court of Admiralty, if this Act had not passed.

35. *Option for any Plaintiff (subject to Rules) to choose in what Division he will sue.* Subject to any Rules of Court and to the provisions hereinbefore contained, and to the power of transfer, every person by whom any cause or matter may be commenced in the said High Court of Justice shall assign such cause or matter to one of the Divisions of the said High Court, not being the Probate, Divorce, and Admiralty

Division thereof, as he may think fit, by marking the document by which the same is commenced, with the name of such Division, and giving notice thereof to the proper officer of the Court; provided that all interlocutory and other steps and proceedings in or before the said High Court, in any cause or matter subsequent to the commencement thereof, shall be taken (subject to any Rules of Court and to the power of transfer) in the Division of the said High Court to which such cause or matter is for the time being attached; provided also, that if any plaintiff or petitioner shall at any time assign his cause or matter to any Division of the said High Court to which, according to the Rules of Court or the provisions of this Act, the same ought not to be assigned, the Court, or any Judge of such Division, upon being informed thereof, may, on a summary application at any stage of the cause or matter, direct the same to be transferred to the Division of the said Court to which, according to such rules or provisions, the same ought to have been assigned, or he may, if he think it expedient so to do, retain the same in the Division in which the same was commenced; and all steps and proceedings whatsoever taken by the plaintiff or petitioner, or by any other party in any such cause or matter, and all orders made therein by the Court or any Judge thereof before any such transfer, shall be valid and effectual to all intents and purposes in the same manner as if the same respectively had been taken and made in the proper Division of the said Court to which such cause or matter ought to have been assigned.

36. *Power of transfer.* Any cause or matter may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by such authority and in such manner as Rules of Court may direct, from one Division or Judge of the High Court of Justice to any other Division or Judge thereof, or may by the like authority be retained in the Division in which the same was commenced, although such may not be the proper Division to which the same cause or matter ought, in the first instance, to have been assigned.

37. *Sittings in London and Middlesex and on Circuits.* Subject to any arrangements which may be from time to time made by mutual agreement between the Judges of the said High Court, the sittings for trials by jury in London and Middlesex, and the sittings of Judges of the said High Court under Commissions of Assize, Oyer and Terminer, and Gaol Delivery, shall be held by or before Judges of the Queen's Bench, Common Pleas, or Exchequer Division of the said High Court; provided that it shall be lawful for Her Majesty, if she shall think fit, to include in any such Commission any Ordinary Judge of the Court of Appeal or any Judge of the Chancery Division to be appointed after the commencement of this Act, or any Serjeant-at-Law, or any of Her Majesty's Counsel learned in the law, who, for the purposes of such Commission, shall have all the power, authority, and jurisdiction of a Judge of the said High Court.

38. *Rota of Judges for election petitions.* The Judges to be placed on the rota for the trial of election petitions for England in each year, under the provisions of the "Parliamentary Elections Act, 1868," shall be selected out of the Judges of the Queen's Bench, Common Pleas, and Exchequer Divisions of the High Court of Justice in such manner as may be provided by any Rules of Court to be made for that purpose; and in the meantime, and subject thereto, shall be selected out of the Judges of the said Queen's Bench, Common Pleas, and Exchequer Divisions of the said High Court, by the Judges of such Divisions respectively, as if such Divisions had been named instead of the Courts of Queen's Bench, Common Pleas, and Exchequer respectively, in such last-mentioned Act: Provided that the Judges who, at the commencement of this Act, shall be upon the rota for the trial of such petitions during the then current year, shall continue upon such rota, until the end of such year, in the same manner as if this Act had not passed.

39. *Powers of one or more Judges not constituting a Divisional Court.* Any Judge of the said High Court of Justice may, subject to any Rules of Court, exercise in Court or in Chambers all or any part of the jurisdiction by this Act vested in the said High Court, in all such causes and matters, and in all such proceedings in any causes or matters as before the passing of this Act might have been heard in Court or in Chambers respectively, by a single Judge of any of the Courts whose jurisdiction is

hereby transferred to the said High Court, or as may be directed or authorised to be so heard by any Rules of Court to be hereafter made. In all such cases, any Judge, sitting in Court shall be deemed to constitute a Court.

40. *Divisional Courts of the High Court of Justice.* Such causes and matters as are not proper to be heard by a single Judge shall be heard by Divisional Courts of the said High Court of Justice, which shall for that purpose exercise all or any part of the jurisdiction of the said High Court. Any number of such Divisional Courts may sit at the same time. A Divisional Court of the said High Court of Justice shall be constituted by two or three, and no more, of the Judges thereof; and, except when through pressure of business or any other cause it may not conveniently be found practicable, shall be composed of three such Judges. Every Judge of the said High Court shall be qualified and empowered to sit in any of such Divisional Courts. The President of every such Divisional Court of the High Court of Justice shall be the senior Judge of those present, according to the order of their precedence under this Act.

41. *Divisional Courts for business of Queen's Bench, Common Pleas, and Exchequer Divisions.* Subject to any Rules of Court, and in the meantime until such Rules shall be made, all business belonging to the Queen's Bench, Common Pleas, and Exchequer Divisions respectively of the said High Court, which, according to the practice now existing in the Superior Courts of Common Law, would have been proper to be transacted or disposed of by the Court sitting in Banc, if this Act had not passed, may be transacted and disposed of by Divisional Courts, which shall, as far as may be found practicable and convenient, include one or more Judge or Judges attached to the particular Division of the said Court to which the cause or matter out of which such business arises has been assigned; and it shall be the duty of every Judge of such last-mentioned Division, and also of every other Judge of the High Court who shall not for the time being be occupied in the transaction of any business specially assigned to him, or in the business of any other Divisional Court, to take part, if required, in the sittings of such Divisional Courts as may from time to time be necessary for the transaction of the business assigned to the said Queen's Bench, Common Pleas, and Exchequer Divisions respectively: and all such arrangements as may be necessary or proper for that purpose, or for constituting or holding any Divisional Courts of the said High Court of Justice for any other purpose authorised by this Act, and also for the proper transaction of that part of the business of the said Queen's Bench, Common Pleas, and Exchequer Divisions respectively, which ought to be transacted by one or more Judges not sitting in a Divisional Court, shall be made from time to time under the direction and superintendence of the Judges of the said High Court; and in case of difference among them, in such manner as a majority of the said Judges, with the concurrence of the Lord Chief Justice of England, shall determine.

42. *Distribution of business among the Judges of the Chancery and Probate, Divorce, and Admiralty Divisions of the High Court.* Subject to any Rules of Court, and in the meantime until such Rules shall be made, all business arising out of any cause or matter assigned to the Chancery or Probate, Divorce and Admiralty Division of the said High Court shall be transacted and disposed of in the first instance by one Judge only, as has been heretofore accustomed in the Court of Chancery, the Court of Probate and for Divorce and Matrimonial Causes, and the High Court of Admiralty respectively; and every cause or matter which, at the commencement of this Act, may be depending in the Court of Chancery, the Court of Probate and for Divorce and Matrimonial Causes, and the High Court of Admiralty respectively, shall (subject to the power of transfer) be assigned to the same Judge in or to whose Court the same may have been depending or attached at the commencement of this Act; and every cause or matter which after the commencement of this Act may be commenced in the Chancery Division of the said High Court shall be assigned to one of the Judges thereof, by marking the same with the name of such of

the said Judges as the plaintiff or petitioner (subject to the power of transfer) may in his option think fit: Provided that (subject to any Rules of Court, and to the power of transfer, and to the provisions of this Act as to trial of questions or issues by Commissioners, or in Middlesex or London), all causes and matters which, if this Act had not passed, would have been within the exclusive cognizance of the High Court of Admiralty, shall be assigned to the present Judge of the said Admiralty Court during his continuance in office as a Judge of the High Court.

43. *Divisional Courts for business of the Chancery Division.* Divisional Courts may be held for the transaction of any part of the business assigned to the said Chancery Division, which the Judge, to whom such business is assigned, with the concurrence of the President of the same Division, deems proper to be heard by a Divisional Court.

44. *Divisional Courts for business belonging to the Division.* Divisional Courts may be held for the transaction of any part of the business assigned to the Probate, Divorce, and Admiralty Division of the said High Court, which the Judges of such Division, with the concurrence of the President of the said High Court, deem proper to be heard by a Divisional Court. Any cause or matter assigned to the said Probate, Divorce, and Admiralty Division may be heard at the request of the President of such Division, with the concurrence of the President of the said High Court, by any other Judge of the said High Court.

45. *Appeals from inferior Courts to be determined by Divisional Courts.* All Appeals from Petty or Quarter Sessions, from a County Court, or from any other inferior Court, which might before the passing of this Act have been brought to any Court or Judge whose jurisdiction is by this Act transferred to the High Court of Justice, may be heard and determined by Divisional Courts of the said High Court of Justice, consisting respectively of such of the Judges thereof as may from time to time be assigned for that purpose, pursuant to Rules of Court, or (subject to Rules of Court) as may be so assigned according to arrangements made for the purpose by the Judges of the said High Court. The determination of such Appeals respectively by such Divisional Court shall be final unless special leave to appeal from the same to the Court of Appeal shall be given by the Divisional Court by which any such appeal from an inferior Court shall have been heard.

46. *Cases and points may be reserved for or directed to be argued before Divisional Courts.* Subject to any Rules of Court, any Judge of the said High Court, sitting in the exercise of its jurisdiction elsewhere than in a Divisional Court, may reserve any case, or any point in a case, for the consideration of a Divisional Court, or may direct any case, or point in a case, to be argued before a Divisional Court; and any Divisional Court of the said High Court shall have power to hear and determine any such case or point so reserved or so directed to be argued.

47. *Provision for Crown cases reserved.* The jurisdiction and authorities in relation to questions of law arising in criminal trials which are now vested in the Justices of either Bench and the Barons of the Exchequer by the Act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter seventy-eight, intituled "An Act for the further amendment of the administration of the Criminal Law," or any Act amending the same, shall and may be exercised after the commencement of this Act by the Judges of the High Court of Justice, or five of them at the least, of whom the Lord Chief Justice of England, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer, or one of such chiefs at least, shall be part. The determination of any such question by the Judges of the said High Court in manner aforesaid shall be final and without appeal; and no appeal shall lie from any judgment of the said High Court in any criminal cause or matter, save for some error of law apparent upon the record, as to which no question shall have been reserved for the consideration of the said Judges under the said Act of the eleventh and twelfth years of Her Majesty's reign.

48. *Motions for new trials to be heard by Divisional Courts.* Every motion for a new trial of any cause or matter on which a verdict has been found by a jury, or by a Judge without a jury, and every motion in arrest of judgment, or to enter judgment non obstante veredicto, or to enter a verdict for plaintiff or defendant, or to enter a nonsuit, or to reduce damages, shall be heard before a Divisional Court; and no appeal shall lie from any judgment founded upon and applying any verdict unless a motion has been made or other proceeding taken before a Divisional Court to set aside or reverse such verdict, or the judgment, if any, founded thereon, in which case an appeal shall lie to the Court of Appeal from the decision of the Divisional Court upon such motion or other proceeding.

49. *What orders shall not be subject to Appeal.* No order made by the High Court of Justice or any Judge thereof, by the consent of parties, or as to costs only, which by law are left to the discretion of the Court, shall be subject to any appeal, except by leave of the Court or Judge making such order.

50. *As to discharging orders made in Chambers.* Every order made by a Judge of the said High Court in Chambers, except orders made in the exercise of such discretion as aforesaid, may be set aside or discharged upon notice by any Divisional Court, or by the Judge sitting in Court, according to the course and practice of the Division of the High Court to which the particular cause or matter in which such order is made may be assigned; and no appeal shall lie from any such order, to set aside or discharge which no such motion has been made, unless by special leave of the Judge by whom such order was made, or of the Court of Appeal.

51. *Provision for absence or vacancy in the office of a Judge.* Upon the request of the Lord Chancellor, it shall be lawful for any Judge of the Court of Appeal, who may consent so to do, to sit and act as a Judge of the said High Court or to perform any other official or ministerial acts for or on behalf of any Judge absent from illness or any other cause, or in the place of any Judge whose office has become vacant, or as an additional Judge of any Division; and while so sitting and acting any such Judge of the Court of Appeal shall have all the power and authority of a Judge of the said High Court.

52. *Power of a single Judge in Court of Appeal.* In any cause or matter pending before the Court of Appeal, any direction incidental thereto, not involving the decision of the appeal, may be given by a single Judge of the Court of Appeal; and a single Judge of the Court of Appeal may at any time during vacation make any interim order to prevent prejudice to the claims of any parties pending an appeal as he may think fit; but every such order made by a single Judge may be discharged or varied by the Court of Appeal or a Divisional Court thereof.

53. *Divisional Courts of Court of Appeal.* Every appeal to the Court of Appeal shall be heard or determined either by the whole Court or by a Divisional Court consisting of any number, not less than three, of the Judges thereof. Any number of such Divisional Courts may sit at the same time. Any appeal which for any reason may be deemed fit to be re-argued before decision or to be re-heard before final judgment may be so re-argued or re-heard before a greater number of Judges if the Court of Appeal think fit so to direct.

54. *Judges not to sit on appeal from their own judgments.* No Judge of the said Court of Appeal shall sit as a Judge on the hearing of an appeal from any judgment or order made by himself or made by any Divisional Court of the High Court of which he was himself a member.

55. *Arrangements for business of Court of Appeal, and for hearing Appeals transferred from the Judicial Committee of the Privy Council.* All such arrangements as may be necessary or proper for the transaction of the business from time to time pending before the Court of Appeal, and for constituting and holding Divisional Courts thereof, shall be made by and under the direction of the President and the other ex officio and ordinary Judges of the said Court of Appeal; and if Her Majesty shall be pleased by Order in Council to direct that the hearing of such appeals and petitions to Her Majesty in Council as hereinbefore mentioned shall be referred to the said Court of Appeal, not less than one Divisional Court of the said Court of Appeal shall sit throughout the year (except

during vacations) for the hearing of such of the appeals and petitions so referred as may from time to time be depending and ready for hearing, which Divisional Court shall be composed (as far as may be found practicable) of Judges of the Court of Appeal who are also members of Her Majesty's Privy Council; and any member of Her Majesty's Privy Council who, having held the office of a Judge in the East Indies or in any of Her Majesty's dominions beyond the seas, shall have been appointed by Her Majesty, under the Acts relating to the Judicial Committee of the Privy Council, to attend the sittings of the said Judicial Committee, may attend the sittings of any such Divisional Court of the Court of Appeal; and with respect to the place of sitting of any such last-mentioned Divisional Court, and any attendance or service therein, or in aid of the proceedings thereof, which may be required from the Registrar or any other officer of Her Majesty's Privy Council, all such arrangements as may be necessary or proper shall be made by the Lord Chancellor, as President of the Court of Appeal, with the concurrence of the President for the time being of Her Majesty's Privy Council; and the President of Her Majesty's Privy Council shall from time to time give such directions to the Registrar and other officers of the said Privy Council as may be necessary or proper for the purpose of carrying such last-mentioned arrangements into effect.

PART IV.

Trial and Procedure.

56. *References and assessors.*] Subject to any Rules of Court and to such right as may now exist to have particular cases submitted to the verdict of a jury, any question arising in any cause or matter (other than a criminal proceeding by the Crown) before the High Court of Justice or before the Court of Appeal, may be referred by the Court or by any Divisional Court or Judge before whom such cause or matter may be pending, for inquiry and report to any official or special Referee, and the report of any such Referee may be adopted wholly or partially by the Court, and may (if so adopted) be enforced as a judgment by the Court. The High Court or the Court of Appeal may also, in any such cause or matter as aforesaid in which it may think it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such cause or matter wholly or partially with the assistance of such assessors. The remuneration, if any, to be paid to such special Referees or assessors shall be determined by the Court.

57. *Power to direct trials before Referees.*] In any cause or matter (other than a criminal proceeding by the Crown) before the said High Court in which all parties interested who are under no disability consent thereto, and also without such consent in any such cause or matter requiring any prolonged examination of documents or accounts, or any scientific or local investigation which cannot, in the opinion of the Court or a Judge, conveniently be made before a jury, or conducted by the Court through its other ordinary officers, the Court or a Judge may at any time, on such terms as may be thought proper, order any question or issue of fact or any question of account arising therein to be tried either before an official Referee, to be appointed as hereinafter provided, or before a special Referee to be agreed on between the parties; and any such special Referee so agreed on shall have the same powers and duties and proceed in the same manner as an official Referee. All such trials before Referees shall be conducted in such manner as may be prescribed by Rules of Court, and subject thereto in such manner as the Court or Judge ordering the same shall direct.

58. *Power of Referees and effect of their findings.*] In all cases of any reference to or trial by Referees under this Act the Referees shall be deemed to be officers of the Court, and shall have such authority for the purpose of such reference or trial as shall be prescribed by Rules of Court or (subject to such Rules) by the Court or Judge ordering such reference or trial; and the report of any Referee upon any question of fact on any such trial shall (unless set aside by the Court) be equivalent to the verdict of a jury.

59. *Powers of Court with respect to proceedings before Referees.*] With respect to all such proceedings before Referees and their Reports, the Court or such Judge as aforesaid shall have, in addition to any other powers, the same or the like powers as are given to any Court whose jurisdiction is hereby transferred to the said High Court with respect to refer-

ences to arbitration and proceeding before arbitrators and their awards respectively, by the Common Law Procedure Act, 1854.

60. *Her Majesty may establish District Registries in the country for the Supreme Court.*] And whereas it is expedient to facilitate the prosecution in country districts of such proceedings as may be more speedily, cheaply, and conveniently carried on therein, it shall be lawful for Her Majesty, by Order in Council, from time to time to direct that there shall be District Registrars in such places as shall be in such order mentioned for districts to be thereby defined, from which writs of summons for the commencement of actions in the High Court of Justice may be issued, and in which such proceedings may be taken and recorded as are hereinafter mentioned; and Her Majesty may thereby appoint that any Registrar of any County Court, or any Registrar or Prothonotary or District Prothonotary of any local Court whose jurisdiction is hereby transferred to the said High Court of Justice, or from which an appeal is hereby given to the said Court of Appeal, or any person who, having been a District Registrar of the Court of Probate, or of the Admiralty Court, shall under this Act become and be a District Registrar of the said High Court of Justice, or who shall hereafter be appointed such District Registrar, shall and may be a District Registrar of the said High Court for the purpose of issuing such writs as aforesaid, and having such proceedings taken before him as are hereinafter mentioned. This section shall come into operation immediately upon the passing of this Act.

61. *Seals of District Registries.*] In every such District Registry such seals shall be used as the Lord Chancellor shall from time to time, either before or after the time fixed for the commencement of this Act, direct, which seal shall be impressed on every writ and other document issued out of or filed in such District Registry, and all such writs and documents, and all exemplifications and copies thereof, purporting to be sealed with the seal of any such District Registry, shall in all parts of the United Kingdom be received in evidence without further proof thereof.

62. *Powers of District Registrars.*] All such District Registrars shall have power to administer oaths and perform such other duties in respect of any proceedings pending in the said High Court of Justice or in the said Court of Appeal as may be assigned to them from time to time by Rules of Court, or by any special order of the Court.

63. *Fees to be taken by District Registrars.*] The Lord Chancellor, with the sanction of the Treasury, may, either before or after the commencement of this Act, fix, and may afterwards, with the like sanction, from time to time alter, a Table of Fees to be taken by such District Registrars in respect of all business to be done under this Act; and such fees shall be received and collected by stamps, denoting in each case the amount of the fee payable. The provisions of the "Courts of Justice (Salaries and Funds) Act, 1869," as to fees to be taken by stamps, shall apply to the fees to be received and collected by stamps under this Act.

64. *Proceedings to be taken in District Registries.*] Subject to the Rules of Court in force for the time being, writs of summons for the commencement of actions in the High Court of Justice shall be issued by the District Registrars when thereunto required; and unless any order to the contrary shall be made by the High Court of Justice, or by any Judge thereof, all such further proceedings, including proceedings for the arrest or detention of a ship, her tackle, apparel, furniture, cargo, or freight, as may and ought to be taken by the respective parties to such action in the said High Court down to and including entry for trial, or (if the plaintiff is entitled to sign final judgment or to obtain an order for an account by reason of the non-appearance of the defendant) down to and including final judgment, or an order for an account, may be taken before the District Registrar, and recorded in the District Registry, in such manner as may be prescribed by Rules of Court; and all such other proceedings in any such action as may be prescribed by Rules of Court shall be taken and if necessary may be recorded in the same District Registry.

65. *Power for Court to remove Proceedings from District Registries.*] Any party to an action in which a writ of summons shall have been issued from any such District Registry shall be at liberty at any time to apply, in such manner as shall be prescribed by Rules of Court, to the said High Court, or to a Judge in Chambers of the Divi-

sion of the said High Court to which the action may be assigned, to remove the proceedings from such District Registry into the proper Office of the said High Court; and the Court or Judge may, if it be thought fit, grant such application, and in such case the proceedings and such original documents, if any, as may be filed therein shall upon receipt of such order be transmitted by the District Registrar to the proper Office of the said High Court, and the said action shall thenceforth proceed in the said High Court in the same manner as if it had been originally commenced by a writ of summons issued out of the proper Office in London; or the Court or Judge, if it be thought right, may thereupon direct that the proceedings may continue to be taken in such District Registry.

66. *Accounts and inquiries may be referred to District Registrars.* It shall be lawful for the Court, or any Judge of the Division to which any cause or matter pending in the said High Court is assigned, if it shall be thought fit, to order that any books or documents may be produced, or any accounts taken or inquiries made, in the Office of or by any such District Registrar as aforesaid; and in any such case the District Registrar shall proceed to carry all such directions into effect in the manner prescribed; and in any case in which any such accounts or inquiries shall have been directed to be taken or made by any District Registrar, the report in writing of such District Registrar as to the result of such accounts or inquiries may be acted upon by the Court, as to the Court shall seem fit.

67. 30 & 31 Vict. c. 142, ss. 5, 7, 8, and 10, to extend to actions in High Court.] The provisions contained in the fifth, seventh, eighth, and tenth sections of the County Courts Acts, 1867, shall apply to all actions commenced or pending in the said High Court of Justice in which any relief is sought which can be given in a County Court.

68. *Rules of Court may be made by Order in Council before commencement of the Act.* Subject to the provisions of this Act, Her Majesty may, at any time before the commencement of this Act, by and with the advice of the Lord Chancellor, the Lord Chief Justice of England, and the other Judges of the several Courts intended to be united and consolidated by this Act, or of the greater number of them (of whom the Lord Chancellor and the Lord Chief Justice of England shall be two), cause to be prepared Rules, in this Act referred to as Rules of Court providing as follows:

- (1.) For the regulation of the sittings of the High Court of Justice and the Court of Appeal, and of any Divisional or other Courts thereof respectively, and of the Judges of the said High Court sitting in Chambers;
- (2.) For the regulation of Circuits, including the times and places at which they are to be holden and the business to be transacted thereat;
- (3.) For the regulation of all matters consistent with or not expressly determined by the Rules contained in the Schedule hereto, which, under and for the purposes of such last-mentioned Rules, require to be, or conveniently may be defined or regulated by further Rules of Court;
- (4.) And, generally, for the regulation of any matters relating to the practice and procedure of the said Courts respectively, or to the duties of the officers thereof, or to the costs of proceedings therein, or to the conduct of civil or criminal business coming within the cognizance of the said Courts respectively, for which provision is not expressly made by this Act or by the Rules contained in the Schedule hereto.

Rules to be laid before Parliament, and may be annulled on address from either House. All Rules of Court made in pursuance of this section shall be laid before each House of Parliament within forty days next after the same are made, if Parliament is then sitting, or if not, within forty days after the then next meeting of Parliament; and if an address is presented to Her Majesty by either of the said Houses, within the next subsequent forty days on which the said House shall have sat, praying that any such Rules may be annulled, Her Majesty may thereupon by Order in Council annul the same; and the Rules so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings

which may in the meantime have been taken under the same. This section shall come into operation immediately on the passing of this Act.

69. *Rules in Schedule to regulate procedure till changed by other Rules after commencement of Act.* The Rules contained in the Schedule to this Act (which shall be read and taken as part of this Act) shall come into operation immediately on the commencement of this Act, and, as to all matters to which they extend, shall thenceforth regulate the proceedings in the High Court of Justice and the Court of Appeal respectively, unless and until, by the authority hereinafter in that behalf provided, any of them may be altered or varied; but such Rules and also all Rules to be made before the commencement of this Act, as hereinbefore mentioned shall for all the purposes of this Act be Rules of Court capable of being annulled or altered by the same authority by which any other Rules of Court may be made, altered, or annulled after the commencement of this Act.

70. *Rules of Probate, Divorce, Admiralty, and Bankruptcy Courts to be Rules of the High Court.* All Rules and Orders of Court which shall be in force in the Court of Probate, the Court for Divorce and Matrimonial Causes, the Admiralty Court, and the London Court of Bankruptcy respectively at the time of the commencement of this Act, except so far as they are hereby expressly varied, shall remain and be in force in the High Court of Justice and in the Court of Appeal respectively in the same manner in all respects as if they had been contained in the Schedule to this Act until they shall respectively be altered or annulled by any Rules of Court made after the commencement of this Act.

71. *Criminal procedure, subject to future Rules, to remain unaltered.* Subject to any Rules of Court to be made under and by virtue of this Act, the practice and procedure in all criminal causes and matters whatsoever in the High Court of Justice and in the Court of Appeal respectively, including the practice and procedure with respect to Crown Cases Reserved, shall be the same as the practice and procedure in similar causes and matters before the passing of this Act.

72. *Act not to affect rules of evidence or juries.* Nothing in this Act or in the Schedule hereto, or in any Rules of Court to be made by virtue hereof, save as far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trials by jury, or the Rules of Evidence, or the law relating to jurymen or juries.

73. *Saving of existing procedure of Courts when not inconsistent with this Act or Rules.* Save as by this Act, or by any Rules of Court (whether contained in the Schedule to this Act, or to be made under the authority thereof), is or shall be otherwise provided, all forms and methods of procedure which at the commencement of this Act were in force in any of the Courts whose jurisdiction is hereby transferred to the said High Court, and to the said Court of Appeal, respectively, under or by virtue of any law, custom, General Orders, or Rules whatsoever, and which are not inconsistent with this Act or with any Rules contained in the said Schedule or to be made by virtue of this Act, may continue to be used and practised in the said High Court of Justice, and the said Court of Appeal, respectively, in such and the like cases, and for such and the like purposes, as those to which they would have been applicable in the respective Courts of which the jurisdiction is so transferred, if this Act had not passed.

74. *Power to make and alter Rules after commencement of Act.* From and after the commencement of this Act, the Supreme Court may at any time, with the concurrence of a majority of the Judges thereof present at any meeting for that purpose held (of which majority the Lord Chancellor shall be one), alter or annul any Rules of Court for the time being in force, or make any new Rules of Court, for the purpose of regulating all such matters of practice and procedure in the Supreme Court, or relating to the suitors or officers of the said Court, or otherwise, as under the provisions of this Act are or may be regulated by Rules of Court: Provided, that any Rule made in the exercise of this power, whether for altering or annulling any then existing Rule, or for any other purpose, shall be laid

before both Houses of Parliament, within the same time, and in the same manner and with the same effect in all respects, as is hereinbefore provided with respect to the said Rules to be made before the commencement of this Act, and may be annulled and made void in the same manner as such last-mentioned Rules.

75. *Councils of Judges to consider procedure and administration of justice.* A Council of the Judges of the Supreme Court, of which due notice shall be given to all the said Judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Lord Chancellor, with the concurrence of the Lord Chief Justice of England, for the purpose of considering the operation of this Act and of the Rules of Court for the time being in force, and also the working of the several offices and the arrangements relative to the duties of the officers of the said Courts respectively, and of inquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the said High Court of Justice or the said Court of Appeal, or in any other Court from which any appeal lies to the said High Court or any Judge thereof, or to the said Court of Appeal; and they shall report annually to one of Her Majesty's Principal Secretaries of State what (if any) amendments or alterations it would in their judgment be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provisions (if any) which cannot be carried into effect without the authority of Parliament it would be expedient to make for the better administration of Justice. Any Extraordinary Council of the said Judges may also at any time be convened by the Lord Chancellor.

76. *Acts of Parliament relating to former Courts to be read as applying to Courts under this Act.* All Acts of Parliament relating to the several Courts and Judges, whose jurisdiction is hereby transferred to the said High Court of Justice and the said Court of Appeal respectively, or wherein any of such Courts or Judges are mentioned or referred to, shall be construed and take effect, so far as relates to anything done or to be done after the commencement of this Act, as if the said High Court of Justice or the said Court of Appeal, and the Judges thereof, respectively, as the case may be, had been named therein instead of such Courts or Judges whose jurisdiction is so transferred respectively; and in all cases not hereby expressly provided for in which, under any such Act, the concurrence or the advice or consent of the Judge or any Judges, or of any number of the Judges, of any one or more of the Courts whose jurisdiction is hereby transferred to the High Court of Justice is made necessary to the exercise of any power or authority capable of being exercised after the commencement of this Act, such power or authority may be exercised by and with the concurrence, advice, or consent of the same or a like number of Judges of the said High Court of Justice; and all general and other Commissions, issued under the Acts relating to the Central Criminal Court or otherwise, by virtue whereof any Judges of any of the Courts whose jurisdiction is so transferred may, at the commencement of this Act, be empowered to try, hear, or determine any causes or matters, criminal or civil, shall remain and be in full force and effect, unless and until they shall respectively be in due course of law revoked or altered.

PART V. *Officers and Offices.*

77. *Transfer of existing staff of officers to Supreme Court.* The Queen's Remembrancer, and all Masters, Secretaries, Registrars, Clerks of Records and Writs, Associates, Prothonotaries, Chief and other Clerks, Commissioners to take oaths or affidavits, Messengers, and other officers and assistants at the time of the commencement of this Act attached to any Court or Judge whose jurisdiction is hereby transferred to the High Court, or to the Court of Appeal, and also all Registrars, Clerks, officers, and other persons at the time of the commencement of this Act engaged in the preparation of commissions or writs, or in the registration of judgments or any other ministerial duties in aid of, or connected with, any Court, the jurisdiction of which is hereby transferred to the said Courts respectively, shall, from and after the commencement of this Act, be attached

to the Supreme Court, consisting of the said High Court of Justice and the said Court of Appeal: Provided, that all the duties with respect to Appeals from the Court of Chancery of the County Palatine of Lancaster which are now performed by the Clerk of the Council of the Duchy of Lancaster shall be performed by the Registrars, Taxing Masters, and other officers by whom like duties are discharged in the Supreme Court; and the said Clerk of the Council of the Duchy of Lancaster shall not be an officer attached to the said Court.

The officers so attached shall have the same rank and hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries, and, if entitled to pensions, be entitled to the same pensions, as if this Act had not passed, and any such officer who is removable by the Court to which he is now attached shall be removable by the Court to which he shall be attached under this Act, or by the majority of the Judges thereof.

The existing Registrars and Clerks to the Registrars in the Chancery Registrars' office shall retain any right of succession secured to them by Act of Parliament, so as to entitle them in that office, or in any substituted office, to the succession to appointments with similar or analogous duties and with equivalent salaries.

The business to be performed in the High Court of Justice and in the Court of Appeal respectively, or in any Divisional or other Court thereof, or in the chambers of any Judge thereof, other than that performed by the Judges, shall be distributed among the several officers attached to the Supreme Court by this section in such manner as may be directed by Rules of Court; and such officers shall perform such duties in relation to such business as may be directed by Rules of Court, with this qualification, that the duties required to be performed by any officer shall be the same, or duties analogous to those which he performed previously to the passing of this Act; and, subject to such Rules of Court, all such officers respectively shall continue to perform the same duties, as nearly as may be, in the same manner as if this Act had not passed.

All Secretaries, Clerks, and other officers attached to any existing Judge who under the provisions of this Act shall become a Judge of the High Court of Justice, or of the Court of Appeal, shall continue attached to such Judge and shall perform the same duties as those which they have hitherto performed, or duties analogous thereto; and all such last-mentioned officers shall have the same rank and hold their offices by the same tenure, and upon the same terms and conditions, and receive the same salaries, and, if entitled to pensions, be entitled to the same pensions, as if this Act had not passed: Provided that the Lord Chancellor may, with the consent of the Treasury, increase the salary of any existing officer whose duties are increased by reason of the passing of this Act.

Upon the occurrence of a vacancy in the office of any officer coming within the provisions of this section, the Lord Chancellor, with the concurrence of the Treasury, may, in the event of such office being considered unnecessary, abolish the same, or may reduce the salary, or alter the designation or duties thereof, notwithstanding that the patronage thereof may be vested in an existing Judge. Nothing in this Act contained shall interfere with the office of Marshal attending any Commissioner of Assize.

78. *Officers of Courts of Pleas at Lancaster and Durham.* The existing Queen's Counsel of the County Palatine of Lancaster shall for the future have the same precedence in the County, and the existing Prothonotaries and District Prothonotaries, and other officers of the Court of Common Pleas at Lancaster and the Court of Pleas at Durham respectively, and their successors, shall (subject to Rules of Court) perform the same or the like duties and exercise the same or the like powers and authorities in respect of all causes and matters depending in those Courts respectively at the commencement of this Act, and also in respect of all causes and matters which may afterwards be commenced in the High Court of Justice in the manner heretofore practised in the said Court of Common Pleas at Lancaster and the said Court of Pleas at Durham respectively as at the commencement of this Act may lawfully be performed and exercised by them respectively under any Acts of Parliament for the time being in force with respect to the said last-mentioned Courts respectively, or under any other authority;

and all powers in respect of any such Prothonotaries, District Prothonotaries, or other officers of the Court of Common Pleas at Lancaster, which at the commencement of this Act may be vested by law in the Chancellor of the Duchy and County Palatine of Lancaster, under any such Act of Parliament or otherwise, and to which the concurrence of any other authority may not be required, shall and may be exercised after the commencement of this Act by the Lord Chancellor; and all the powers of making or publishing any general rules or orders with respect to the powers or duties of such Prothonotaries, District Prothonotaries, or other officers of the said Court of Common Pleas at Lancaster or the said Court of Pleas at Durham, or with respect to the business of the said Court respectively, or with respect to any fees to be taken therein, or otherwise with reference thereto, which under any such Act as aforesaid or otherwise by law may be vested in the Chancellor of the Duchy and County Palatine of Lancaster, with the concurrence of any Judges or Judge, or in any other authority, shall be exercised after the commencement of this Act in the manner hereby provided with respect to Rules of Court to be made under this Act, and (in all cases in which the sanction of the Treasury is now required) with the sanction of the Treasury; and all provisions made by any such Acts as aforesaid, or otherwise, for or with respect to the remuneration of any such Prothonotaries, District Prothonotaries, or other officers as aforesaid, shall remain and be in full force and effect until the same shall be altered under the provisions of this Act, or otherwise by lawful authority.

79. *Personal officers of future Judges.*] Each of the Judges of the High Court of Justice, and of the Ordinary Judges of the Court of Appeal, appointed respectively after the commencement of this Act, and also such of the Ordinary Judges of the Court of Appeal as have no similar officers at the time of the commencement of this Act, shall have such officers as hereinafter mentioned, who shall be attached to his person as such Judge, and appointed and removable by him at his pleasure, and who shall respectively receive the salaries hereinafter mentioned; (that is to say,)

To the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer, respectively, there shall be attached a Secretary, whose salary shall be five hundred pounds per annum, a Principal Clerk, whose salary shall be four hundred pounds per annum, and a Junior Clerk, whose salary shall be two hundred pounds per annum. To each of the other Judges of the High Court of Justice, and to each of the Ordinary Judges of the Court of Appeal, there shall be attached a Principal Clerk, whose salary shall be four hundred pounds per annum, and, in the case of the Judges of the High Court of Justice, a Junior Clerk, whose salary shall be two hundred pounds per annum.

Such one or more of the officers so attached to each of the said Judges, as such Judge shall think fit, shall be required, while in attendance on such Judge, to discharge, without further remuneration, the duties of Crier in Court or on Circuit, or of Usher or Train Bearer. The duties of Chamber Clerks, so far as relates to business transacted in chambers by Judges appointed after the commencement of this Act, shall be performed by officers of the Court in the permanent civil service of the Crown.

80. *Provisions as to officers paid out of fees.*] Any existing officer attached to any existing Court or Judge whose jurisdiction is abolished or transferred by this Act, who is paid out of fees, and whose emoluments are affected by the passing of this Act, shall be entitled to prefer a claim to the Treasury; and the Treasury, if it shall consider his claim to be established, shall have power to award to him such sum, either by way of compensation, or as an addition to his salary, as it thinks just, having regard to the tenure of office by such officer and to the other circumstances of the case.

81. *Doubts as to the status of officers to be determined by Rule.*] Where a doubt exists as to the position under this Act of any existing officer attached to any existing Court or Judge affected by this Act, such doubt may be determined by Rules of Court: subject to this proviso, that such Rules of Court shall not alter the tenure of office, rank, pension (if any), or salary of such officer, or require him to perform any duties other than duties analogous to those which he has already performed.

82. *Powers of Commissioners to administer oaths.*] Every person who at the commencement of this Act shall be authorised to administer oaths in any of the Courts whose jurisdiction is hereby transferred to the High Court of Justice shall be a commissioner to administer oaths in all causes and matters whatsoever which may from time to time be depending in the said High Court or in the Court of Appeal.

83. *Official Referees to be appointed.*] There shall be attached to the Supreme Court permanent officers to be called Official Referees, for the trial of such questions as shall under the provisions of this Act be directed to be tried by such Referees. The number and the qualifications of the persons to be so appointed from time to time, and the tenure of their offices, shall be determined by the Lord Chancellor, with the concurrence of the Presidents of the divisions of the High Court of Justice, or a majority of them (of which majority the Lord Chief Justice of England shall be one), and with the sanction of the Treasury. Such Official Referees shall perform the duties entrusted to them in such places, whether in London or in the country, as may from time to time be directed or authorised by any order of the said High Court, or of the Court of Appeal; and all proper and reasonable travelling expenses incurred by them in the discharge of their duties shall be paid by the Treasury out of moneys to be provided by Parliament.

84. *Duties, appointment, and removal of officers of Supreme Court.*] Subject to the provisions in this Act contained with respect to existing officers of the Courts whose jurisdiction is hereby transferred to the Supreme Court, there shall be attached to the Supreme Court such officers as the Lord Chancellor with the concurrence of the Presidents of the Divisions of the High Court of Justice, or the major part of them, of which majority the Lord Chief Justice of England shall be one, and with the sanction of the Treasury, may from time to time determine.

Such of the said several officers respectively as may be thought necessary or proper for the performance of any special duties, with respect either to the Supreme Court generally, or with respect to the High Court of Justice or the Court of Appeal, or with respect to any one of the divisions of the said High Court, or with respect to any particular Judge or Judges of either of the said Courts, may by the same authority, and with the like sanction as aforesaid, be attached to the said respective Courts, Divisions, and Judges accordingly.

All officers assigned to perform duties with respect to the Supreme Court generally, or attached to the High Court of Justice or the Court of Appeal, and all Commissioners to take oaths or affidavits in the Supreme Court, shall be appointed by the Lord Chancellor.

All officers attached to the Chancery Division of the said High Court, who have been heretofore appointed by the Master of the Rolls, shall continue, while so attached, to be appointed by the Master of the Rolls.

All other officers attached to any Division of the said High Court shall be appointed by the President of that Division.

All officers attached to any Judge shall be appointed by the Judge to whom they are attached.

Any officer of the Supreme Court (other than such officers attached to the person of a Judge as are hereinbefore declared to be removable by him at his pleasure,) may be removed by the person having the right of appointment to the office held by him, with the approval of the Lord Chancellor, for reasons to be assigned in the order of removal.

The authority of the Supreme Court over all or any of its officers may be exercised in and by the said High Court and the said Court of Appeal respectively, and also in the case of officers attached to any Division of the High Court by the President of such Division, with respect to any duties to be discharged by them respectively.

85. *Salaries and pensions of officers.*] There shall be paid to every official Referee and other salaried officer appointed in pursuance of this Act such salary out of moneys to be provided by Parliament as may be determined by the Treasury with the concurrence of the Lord Chancellor.

An officer attached to the person of a Judge shall not be

entitled to any pension or compensation in respect of his retirement from or the abolition of his office, except so far as he may be entitled thereto independently of this Act; but every other officer to be hereafter appointed in pursuance of this part of this Act, and whose whole time shall be devoted to the duties of his office, shall be deemed to be employed in the permanent Civil Service of Her Majesty, and shall be entitled, as such, to a pension or compensation in the same manner, and upon the same terms and conditions, as the other permanent civil servants of Her Majesty are entitled to pension or compensation.

86. *Patronage not otherwise provided for.*] Subject to the provisions hereinbefore contained, any rights of patronage and other rights or powers incident to any Court, or to the office of any Judge of any Court whose jurisdiction is transferred to the said High Court of Justice, or to the said Court of Appeal, in respect of which rights of patronage or other rights or powers no provision is or shall be otherwise made by or under the authority of this Act, shall be exercised as follows, that is to say: if incident to the office of any existing Judge shall continue to be exercised by such existing Judge during his continuance in office as a Judge of the said High Court or of the Court of Appeal, and after the death, resignation, or removal from office of such existing Judge shall be exercised in such manner as Her Majesty may by Sign Manual direct.

87. *Solicitors and attorneys.*] From and after the commencement of this Act all persons admitted as solicitors, attorneys, or proctors or by law empowered to practise in any Court, the jurisdiction of which is hereby transferred to the High Court of Justice or the Court of Appeal, shall be called Solicitors of the Supreme Court, and shall be entitled to the same privileges and be subject to the same obligations, so far as circumstances will permit, as if this Act had not passed; and all persons who from time to time, if this Act had not passed, would have been entitled to be admitted as solicitors, attorneys, or proctors or of been by law empowered to practise in any such Courts, shall be entitled to be admitted and to be called Solicitors of the Supreme Court, and shall be admitted by the Master of the Rolls, and shall, as far as circumstances will permit, be entitled as such solicitors to the same privileges and be subject to the same obligations as if this Act had not passed.

Any solicitors, attorneys, or proctors to whom this section applies shall be deemed to be Officers of the Supreme Court; and that Court, and the High Court of Justice, and the Court of Appeal respectively, or any Division or Judge thereof, may exercise the same jurisdiction in respect of such solicitors or attorneys as any one of Her Majesty's superior courts of law or equity might previously to the passing of this Act have exercised in respect of any solicitor or attorney admitted to practise therein.

PART VI.

Jurisdiction of Inferior Courts.

88. *Power by Order in Council to confer jurisdiction on inferior Courts.*] It shall be lawful for Her Majesty from time to time by Order in Council to confer on any inferior Court of civil jurisdiction, the same jurisdiction in Equity and in Admiralty, respectively, as any County Court now has, or may hereafter have, and such jurisdiction, if and when conferred, shall be exercised in the manner by this Act directed.

89. *Powers of inferior Courts having Equity and Admiralty jurisdiction.*] Every inferior Court which now has or which may after the passing of this Act have jurisdiction in equity, or at law and in equity, and in Admiralty respectively, shall, as regards all causes of action within its jurisdiction for the time being, have power to grant, and shall grant in any proceeding before such Court, such relief, redress, or remedy, or combination of remedies, either absolute or conditional, and shall in every such proceeding give such and the like effect to every ground of defence or counter-claim, equitable or legal (subject to the provision next hereinafter contained), in as full and ample a manner as might and ought to be done in the like case by the High Court of Justice.

90. *Counter-claims in inferior Courts, and transfers therefrom.*] Where in any proceeding before any such inferior Court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the Court, such defence or counter-claim shall not affect the competence or the duty of the Court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the

defence thereto, but no relief exceeding that which the Court has jurisdiction to administer shall be given to the defendant upon any such counter-claim; Provided always, that in such case it shall be lawful for the High Court, or any Division or Judge thereof, if it shall be thought fit, on the application of any party to the proceeding, to order that the whole proceeding be transferred from such inferior Court to the High Court, or to any Division thereof; and in such case the Record in such proceeding shall be transmitted by the Registrar, or other proper officer, of the inferior Court to the said High Court; and the same shall thenceforth be continued and prosecuted in the said High Court as if it had been originally commenced therein.

91. *Rules of law to apply to inferior Courts.*] The several rules of law enacted and declared by this Act shall be in force and receive effect in all Courts whatsoever in England, so far as the matters to which such Rules relate shall be respectively cognisable by such Courts.

PART VII.

Miscellaneous Provisions.

92. *Transfer of books and papers to Supreme Court.*] All books, documents, papers, and chattels in the possession of any Court, the jurisdiction of which is hereby transferred to the High Court of Justice or to the Court of Appeal, or of any officer or person attached to any such Court, as such officer, or by reason of his being so attached, shall be transferred to the Supreme Court, and shall be dealt with by such officer or person in such manner as the High Court of Justice or the Court of Appeal may by order direct; and any person failing to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Supreme Court.

93. *Saving as to circuits, &c.*] This Act, except as herein is expressly directed, shall not, unless or until other commissions are issued in pursuance thereof, affect the circuits of the Judges or the issue of any Commissions of Assize, Nisi Prius, Oyer and Terminer, Gaol Delivery, or other commissions for the discharge of civil or criminal business on circuit or otherwise, or any patronage vested in any Judges going circuit, or the position, salaries, or duties of any officers transferred to the Supreme Court who are now officers of the Superior Courts of Common Law, and who perform duties in relation to either the civil or criminal business transacted on circuit.

94. *Saving as to Lord Chancellor.*] This Act, except so far as herein is expressly directed, shall not affect the office or position of Lord Chancellor; and the officers of the Lord Chancellor shall continue attached to him in the same manner as if this Act had not passed; and all duties, which any officer of the Court of Chancery may now be required to perform in aid of any duty whatsoever of the Lord Chancellor, may in like manner be required to be performed by such officer when transferred to the Supreme Court, and by his successors.

95. *Saving as to Chancellor of Lancaster.*] This Act, except so far as is herein expressly directed, shall not affect the offices, position, or functions of the Chancellor of the County Palatine of Lancaster.

96. *Saving as to Chancellor of the Exchequer and Sheriffs.*] The Chancellor of the Exchequer shall not be a Judge of the High Court of Justice, or of the Court of Appeal, and shall cease to exercise any judicial functions hitherto exercised by him as a Judge of the Court of Exchequer; but save as aforesaid he shall remain in the same position as to duties and salary, and other incidents of his office, as if this Act had not passed. The same order and course with respect to the appointment of sheriffs shall be used and observed in the Exchequer Division of the said High Court as has been heretofore used and observed in the Court of Exchequer.

97. *Saving as to Lord Treasurer and office of the Receipt or Exchequer.*] Nothing in this Act contained shall affect the office of Lord Treasurer, except that any Lord Treasurer shall not hereafter exercise any judicial functions hitherto exercised by him as a Judge of the Court of Exchequer; and nothing in this Act shall affect the office of the Receipt of the Exchequer.

98. *Provisions as to Great Seal being in commission.*] When the Great Seal is in commission, the Lords Commissioners shall represent the Lord Chancellor for the purposes of this Act, save that as to the Presidency of the Court of

Appeal, and the appointment or approval of officers, or the sanction to any order for the removal of officers, or any other act to which the concurrence or presence of the Lord Chancellor is hereby made necessary, the powers given to the Lord Chancellor by this Act may be exercised by the Senior Lord Commissioner for the time being.

99. *Provision as to Commissions in Counties Palatine.*] From and after the commencement of this Act, the Counties Palatine of Lancaster and Durham shall respectively cease to be Counties Palatine, so far as respects the issue of Commissions of Assize, or other like Commissions, but not further or otherwise; and all such Commissions may be issued for the trial of all causes and matters within such counties respectively in the same manner in all respects as in any other counties of England and Wales.

100. *Interpretation of terms.*] In the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned shall have, or include, the meanings following (that is to say,)

"Lord Chancellor" shall include Lord Keeper of the Great Seal.

"The High Court of Chancery" shall include the Lord Chancellor.

"The Court of Appeal in Chancery" shall include the Lord Chancellor as a Judge on Rehearing or Appeal.

"London Court of Bankruptcy" shall include the Chief Judge in Bankruptcy.

"The Treasury" shall mean the Commissioners of Her Majesty's Treasury for the time being, or any two of them.

"Rules of Court" shall include forms.

"Cause" shall include any action, suit, or other original proceeding between a plaintiff and a defendant, and any criminal proceeding by the Crown.

"Suit" shall include action.

"Action" shall mean a civil proceeding commenced by writ, or in such other manner as may be prescribed by Rules of Court; and shall not include a criminal proceeding by the Crown.

"Plaintiff" shall include every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise.

"Petitioner" shall include every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant.

"Defendant" shall include every person served with any writ of summons or process, or served with notice of, or entitled to attend any proceedings.

"Party" shall include every person served with notice of, or attending any proceeding, although not named on the Record.

"Matter" shall include every proceeding in the Court not in a cause.

"Pleading" shall include any petition or summons, and also shall include the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant.

"Judgment" shall include decree.

"Order" shall include rule.

"Oath" shall include solemn affirmation and statutory declaration.

"Crown cases reserved" shall mean such questions of law reserved in Criminal Trials as are mentioned in the Act of the eleventh and twelfth years of Her Majesty's reign, chapter seventy-eight.

"Pension" shall include retirement and superannuation allowance.

"Existing" shall mean existing at the time appointed for the commencement of this Act.

SCHEDULE.

RULES OF PROCEDURE.

Form of Action.

1. *Form of Action in High Court.*] All actions which have hitherto been commenced by writ in the Superior Courts of Common Law at Westminster, or in the Court of Common Pleas at Lancaster, or in the Court of Pleas at Durham, and

all suits which have hitherto been commenced by bill or information in the High Court of Chancery, or by a cause in rem or in personam in the High Court of Admiralty, or by citation or otherwise in the Court of Probate, shall be instituted in the High Court of Justice by a proceeding to be called an action.

All other proceedings in and applications to the High Court may, subject to Rules of Court, be taken and made in the same manner as they would have been taken and made in any Court in which any proceeding or application of the like kind could have been taken or made if this Act had not passed.

Writ of Summons.

2. *Actions to be commenced by writ.*] Every action in the High Court shall be commenced by a writ of summons, which shall be endorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action, and which shall specify the Division of the High Court to which it is intended that the action should be assigned.

3. *Form of writ.*] Forms of writs and of endorsements thereon, applicable to the several ordinary causes of action, shall be prescribed by Rules of Court, and any costs incurred by the use of any more prolix or other forms shall be borne by the party using the same, unless the Court shall otherwise direct.

4. *Acceptance of service.*] No service of writ shall be required when the defendant, by his solicitor, agrees to accept service, and enters an appearance.

5. *Service of writ.*] When service is required the writ shall, wherever it is practicable, be served in the manner in which personal service is now made, but if it be made to appear to the Court or to a Judge that the plaintiff is from any cause unable to effect prompt personal service, the Court or Judge may make such order for substituted or other service, or for the substitution of notice for service, as may seem just.

6. *Service out of the jurisdiction.*] Whenever it appears fit to the Court or to a Judge in a case in which the cause of action has arisen within the jurisdiction, or is properly cognizable against a defendant within the jurisdiction, that any person out of the jurisdiction of the Court should be served with the writ or other process of the Court, the Court or Judge may order such service, or such notice in lieu of service, to be made or given in such manner and on such terms as may seem just.

7. *Special endorsement of particulars of debts or liquidated demands.* See C. L. P. Act, 1852, ss. 25, 27.] In all actions where the plaintiff seeks merely to recover a debt or liquidated demand in money, payable by the defendant, with or without interest, arising upon a contract, express or implied, as, for instance, on a bill of exchange, promissory note, cheque, or other simple contract debt, or on a bond or contract under seal for payment of a liquidated amount of money, or on a statute where the sum sought to be recovered is a fixed sum of money or in the nature of a debt, or on a guaranty, whether under seal or not, where the claim against the principal is in respect of such debt or liquidated demand, bill, cheque, or note, or on a trust, the writ of summons may be specially endorsed with the particulars of the amount sought to be recovered, after giving credit for any payment or set-off.

In case of non-appearance by the defendant where the writ of summons is so specially endorsed, the plaintiff may sign final judgment for any sum not exceeding the sum endorsed on the writ, together with interest at the rate specified, if any, to the date of the judgment, and a sum for costs, but it shall be lawful for the Court or a Judge to set aside or vary such judgment upon such terms as may seem just.

Where the defendant appears on a writ of summons so specially endorsed, the plaintiff may, on affidavit verifying the cause of action, and swearing that in his belief there is no defence to the action, call on the defendant to show cause before the Court or a Judge why the plaintiff should not be at liberty to sign final judgment for the amount so endorsed, together with interest, if any, and costs; and the Court or Judge may, unless the defendant, by affidavit or otherwise, satisfy the Court or Judge that he has a good defence to the action on the merits, or disclose such facts as the Court or Judge may think sufficient to entitle him to be permitted to defend the action, make an order empowering the plaintiff to sign judgment accordingly. Permission to defend the action may be granted to the defendant on such terms and conditions, if any, as the Judge or Court may think just.

8. *Special endorsement of particulars in cases of account.*] In all cases of ordinary account, as, for instance, in the case of

a partnership or executorship or ordinary trust account, where the plaintiff, in the first instance, desires to have an account taken, the writ of summons shall be endorsed with a claim that such account be taken.

In default of appearance on such summons, and after appearance unless the defendant, by affidavit or otherwise, satisfy the Court or a Judge that there is some preliminary question to be tried, an order for the account claimed, with all directions now usual in the Court of Chancery in similar cases, shall be forthwith made.

Parties.

9. *Mis-joinder or non-joinder of parties.* No action shall be defeated by reason of the mis-joinder of parties, and the Court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. The Court or a Judge may, at any stage of the proceedings, either upon or without the application of either party, in the manner prescribed by Rules of Court, and on such terms as may appear to the Court or a Judge to be just, order that the name or names of any party or parties, whether as plaintiffs or as defendants, improperly joined be struck out, and that the name or names of any party or parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added. No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his own consent thereto. All parties whose names are so added as defendants shall be served with a summons or notice in such manner as may be prescribed by Rules of Court or by any special order, and the proceedings as against them shall be deemed to have begun only on the service of such summons or notice.

10. *Representation of parties having same interest.* Where there are numerous parties having the same interest in one action, one or more of such parties may sue or be sued, or may be authorised by the Court to defend in such action, on behalf or for the benefit of all parties so interested.

11. *Co-partners.* Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and any party to an action may in such case apply by summons to a Judge in Chambers for a statement of the names of the persons who are co-partners in any such firm, to be furnished in such manner, and verified on oath or otherwise, as the Judge may direct.

12. *Power to determine questions as against third parties.* Where a defendant is or claims to be entitled to contribution or indemnity, or any other remedy or relief over against any other person, or where from any other cause it appears to the Court or a Judge that a question in the action should be determined not only as between the plaintiff and defendant, but as between the plaintiff, defendant, and any other person, or between any or either of them, the Court or a Judge may on notice being given to such last mentioned person, in such manner and form as may be prescribed by Rules of Court, make such order as may be proper for having the question so determined.

13. *Provision for case of doubt as to proper parties.* Where in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may, in such manner as may be prescribed by Rules of Court, or by any special order, join two or more defendants, to the intent that in such action the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties to the action.

14. *Trustees, executors, &c.* Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action; but the Court or a Judge may, at any stage of the proceedings, order any of such parties to be made parties to the action, either in addition to or in lieu of the previously existing parties thereto.

15. *Actions by married women and infants.* Married women and infants may respectively sue as plaintiffs by their next friends, in the manner practised in the Court of Chancery before the passing of this Act; and infants may, in like manner, defend any action by their guardians appointed for

that purpose. Married women may also, by the leave of the Court or a Judge, sue or defend without their husbands and without a next friend, on giving such security (if any) for costs as the Court or a Judge may require.

16. *Parties where there are several liabilities on the same contract.* The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

17. *Abatement.* An action shall not become abated by reason of the marriage, death, or bankruptcy of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation, or devolution of any estate or title pendente lite.

In case of the marriage, death, or bankruptcy, or devolution of estate by operation of law, of any party to an action, the Court or a Judge may, if it be deemed necessary for the complete settlement of all the questions involved in the action, order that the husband, personal representative, trustee, or other successor in interest, if any, of such party be made a party to the action, or be served with notice thereof in such manner and form as may be prescribed by Rules of Court, and on such terms as the Court or Judge shall think just, and shall make such order for the disposal of the action as may be just.

In case of an assignment, creation, or devolution of any estate or title pendente lite, the action may be continued by or against the person to or upon whom such estate or title has come or devolved.

Pleadings.

18. *Form of pleadings.* The following rules of pleading shall be substituted for those heretofore used in the High Court of Chancery and in the Courts of Common Law, Admiralty, and Probate.

Unless the defendant at the time of his appearance shall state that he does not require the delivery of a statement of complaint, the plaintiff shall within such time and in such manner as shall be prescribed by Rules of Court, file and deliver to the defendant after his appearance a printed statement of his complaint and of the relief or remedy to which he claims to be entitled. The defendant shall within such time and in such manner as aforesaid file and deliver to the plaintiff a printed statement of his defence, set-off, or counter-claim (if any), and the plaintiff shall in like manner file and deliver a printed statement of his reply (if any) to such defence, set-off, or counter-claim. Such statements shall be as brief as the nature of the case will admit, and the Court in adjusting the costs of the action shall inquire at the instance of any party into any unnecessary prolixity and order the costs occasioned by such prolixity to be borne by the party chargeable with the same.

A demurrer to any statement may be filed in such manner and form as may be prescribed by the Rules of Court.

The Court or a Judge may, at any stage of the proceedings, allow either party to alter his statement of claim or defence or reply, or may order to be struck out or amended any matter in such statements respectively which may be scandalous, or which may tend to prejudice, embarrass, or delay the fair trial of the action, and all such amendments shall be made as may be necessary for the purpose of determining the real questions or question in controversy between the parties.

19. *Power to settle issues.* Where in any action it appears to a Judge that the statement of claim or defence or reply does not sufficiently disclose the issues of fact in dispute between the parties, he may direct the parties to prepare issues, and such issues shall, if the parties differ, be settled by the Judge.

20. *Counter-claims by defendant.* A defendant may set off, or set up, by way of counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a statement of claim in a cross action, so as to enable the Court to pronounce a final judgment in the same action, both on the original and on the cross claim. But the Court or a Judge may, on the application of the plaintiff before trial, if in the opinion of the Court or Judge such set-off or counter-claim cannot be conveniently disposed of in the pending action, or ought not to be allowed, refuse permission to the defendant to avail himself thereof.

21. *Power to give judgment for defendant for balance under counter-claim.*] Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

22. *Joinder of several causes of action.*] Subject to any Rules of Court, the plaintiff may unite in the same action and in the same statement of claim several causes of action, but if it appear to the Court or a Judge that any such causes of action cannot be conveniently tried or disposed of together the Court or Judge may order separate trials of any of such causes of action to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

23. It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein; but the Court or a Judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in such action in which he may have no interest.

24. *Power for Court to raise preliminary questions of law in an action.*] If it appear to the Court or a Judge, either from the statement of claim or defence or reply or otherwise, that there is in any action a question of law, which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried, or before any reference is made to a Referee or an Arbitrator, the Court or Judge may make an order accordingly, and may direct such question of law to be raised for the opinion of the Court, either by special case or in such other manner as the Court or Judge may deem expedient, or as may be prescribed by Rules of Court, and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed.

Discovery.

25. *Right of discovery on interrogatories.*] Subject to any Rules of Court, a plaintiff in any action shall be entitled to exhibit interrogatories to, and obtain discovery from, any defendant, and any defendant shall be entitled to exhibit interrogatories to, and obtain discovery from, a plaintiff or any other party. Any party shall be entitled to object to any interrogatory on the ground of irrelevancy, and the Court or a Judge, if not satisfied that such interrogatory is relevant to some issue in the cause, may allow such objection. No exceptions shall be taken to any answer, but the sufficiency or otherwise of any answer objected to as insufficient shall be determined by the Court or a Judge in a summary way.

The Court in adjusting the costs of the action shall at the instance of any party inquire or cause inquiry to be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing master or of the Court or Judge that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

26. *Production of documents pleaded or proved.*] Every party to an action or other proceeding shall be entitled, at any time before or at the hearing thereof, by notice in writing, to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his solicitor, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such action or proceeding, unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the action, or that he had some other sufficient cause for not complying with such notice.

27. *Discovery as to documents.*] It shall be lawful for the Court or a Judge at any time during the pendency therein of any action or proceeding, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit or proceeding, as the Court or Judge shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

Place of Trial.

28. *Place of Trial.*] There shall be no local venue for the trial of action, but when the plaintiff proposes to have the action tried elsewhere than in Middlesex, he shall in his statement of claim name the county or place in which he proposes that the action shall be tried, and the action shall, unless a Judge otherwise orders, be tried in the county or place so named. Where no place of trial is named in the statement of claim, the place of trial shall, unless a Judge otherwise orders, be the county of Middlesex. Any order of a Judge, as to such place of trial, may be discharged or varied by a Divisional Court of the High Court.

29. *List for trials in London and Middlesex.*] The list or lists of actions for trial at the sittings in London and Middlesex respectively shall be prepared and the actions shall be allotted for trial in such manner as may be prescribed by Rules of Court, without reference to the division of the High Court to which such actions may be attached.

Mode of Trial.

30. *Mode of trying actions.*] Actions shall be tried and heard either before a Judge or Judges, or before a Judge sitting with assessors, or before a Judge and Jury, or before an official or special Referee, with or without assessors.

31. *Notice of mode of trial to be given.*] The plaintiff may give notice of trial by any of the modes aforesaid, but the defendant may, upon giving notice, within such time as may be fixed by Rules of Court, that he desires to have any issues of fact tried before a Judge and Jury, be entitled to have the same so tried, or he may apply to the Court or a Judge for an order to have the action tried in any other of the said ways, and in such case the mode in which the action is to be tried or heard shall be determined by such Court or Judge.

32. *Different questions arising in same action may be tried in different ways.*] In any action the Court or a Judge may at any time or from time to time, order that different questions of fact arising therein be tried by different modes of trial, or that one or more questions of fact be tried before the others, and may appoint the place or places for such trial or trials.

33. *Trials by jury.*] Every trial of any question or issue of facts by a jury shall be held before a single Judge, unless such trial be specially ordered to be held before two or more Judges.

34. *Proceedings before an official Referee.*] Where an action or matter, or any question in an action or matter, is referred to a Referee, he may, subject to the order of the Court or a Judge, hold the trial at or adjourn it to any place which he may deem most convenient, and have any inspection or view either by himself or with his assessors (if any), which he may deem expedient for the better disposal of the controversy before him. He shall, unless otherwise directed by the Court or a Judge, proceed with the trial in open Court *die in diem*, in a similar manner as in actions tried by a jury.

35. *Effect of decision of Referee.*] The Referee may, before the conclusion of any trial before him, or by his report under the reference made to him, submit any question arising therein for the decision of the Court, or state any facts specially, with power to the Court to draw inferences therefrom, and in any such case the order to be made on such submission or statement shall be entered as the Court may direct; and the Court shall have power to require any explanation or reasons from the Referee, and to remit the action or any part thereof for retrial or further consideration to the same or any other Referee.

Evidence.

36. *Mode of giving evidence at trials.*] In the absence of any agreement between the parties, and subject to any Rules of Court applicable to any particular class of cases, the witnesses at the trial of any cause or at any assessment of damages, shall be examined *viva voce* and in open court, but the Court or a Judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing or trial, on such conditions as the Court or Judge may think reasonable, or that any witness whose attendance in court ought for some sufficient cause to be dispensed with, be examined by interrogatories or otherwise before a Commissioner or examiner; provided that where it appears to the Court or Judge that the other party bona fide desires the production of a witness for cross-examination, and that such witness can be pro-

duced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

37. *Evidence at interlocutory applications.*] Upon any interlocutory application evidence may be given by affidavit; but the Court or a Judge may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit.

38. *Matter of affidavits.*] Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory motions, on which statements as to his belief, with the grounds thereof, may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

39. *Admissions.*] Any party to an action may give notice, by his own statement or otherwise, that he admits the truth of the whole or any part of the case stated or referred to in the statement of claim, defence, or reply of any other party.

Either party may call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the action may be, unless at the hearing or trial the Court certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the taxing officer, a saving of expense.

Interlocutory Orders and Directions.

40. *Power for party to apply for order before termination of action.*] Any party to an action may at any stage thereof apply to the Court or a Judge for such order as he may, upon any admissions of fact in the pleadings, be entitled to, without waiting for the determination of any other question between the parties.

41. *Power to transfer questions arising in actions.*] The Lord Chancellor, with the concurrence of the Lord Chief Justice of England, may order any question of law or of fact which may arise in any action or matter to be transferred from any Judge to any other Judge, or to be tried or heard by any other Judge of the said High Court, and may confer on such Judge power to deal with the whole or any part of the matters in controversy.

42. *Accounts and inquiries.*] The Court or a Judge may, at any stage of the proceedings in an action or matter, direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought for or some special matter to be tried, as to which it may be proper that the cause should proceed in the ordinary manner.

43. *Interim orders as to subject matter of litigation.*] When by any contract a *prima facie* case of liability is established, and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the Court or a Judge may make an order for the preservation or interim custody of the subject-matter of the litigation, or may order that the amount in dispute be brought into Court or otherwise secured.

44. *Power to make orders for sale of goods.*] It shall be lawful for the Court or a Judge, on the application of any party to any action, to make any order for the sale, by any person or persons named in such order, and in such manner, and on such terms as to the Court or Judge may seem desirable, of any goods, wares, or merchandise which may be of a perishable nature or likely to injure from keeping, or which for any other just and sufficient reason it may be desirable to have sold at once.

45. *Power for Court to make interim orders as to preservation or examination of property, examination of witnesses, &c.*] It shall be lawful for the Court or a Judge, upon the application of any party to an action, and upon such terms as may seem just, to make any order for the detention, preservation, or inspection of any property, being the subject of such action, and for all or any of the purposes aforesaid to authorise any person or persons to enter upon or into any land or building in the possession of any party to such action, and for all or any of the purposes aforesaid to authorise any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence. The Court or a Judge may also,

in all cases where it shall appear necessary for the purposes of justice, make any order for the examination upon oath before any officer of the Court, or any other person or persons, and at any place, of any witness or person, and may order any deposition so taken to be filed in the court, and may empower any party to any action or other proceeding to give such deposition in evidence therein on such terms, if any, as the Court or a Judge may direct.

46. *Discontinuance of action.*] The plaintiff may, at any time before receipt of the defendant's statement of defence, or after the receipt thereof before taking any other proceeding in the action (save any interlocutory application), by notice in writing, wholly discontinue his action or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay the defendant's costs of the action, or, if the action be not wholly discontinued, the defendant's costs occasioned by the matter so withdrawn. Such costs shall be taxed in the manner prescribed by Rules of Court, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. Save as in this Rule otherwise provided, it shall not be competent for the plaintiff to withdraw the Record or discontinue the action without leave of the Court or a Judge, but the Court or a Judge may, before, or at, or after the hearing or trial, upon such terms as to costs, and as to any other action, and otherwise as may seem fit, order the action to be discontinued, or any part of the alleged cause of complaint to be struck out. The Court or a Judge may, in like manner, and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counter-claim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence, or any part thereof, without such leave. Any judgment of nonsuit, unless the Court or a Judge otherwise directs, shall have the same effect as a judgment upon the merits for the defendant; but in any case of mistake, surprise, or accident, any judgment of nonsuit may be set aside on such terms, as to payment of costs and otherwise, as to the Court or a Judge shall seem just.

Costs.

47. *Costs.*] Subject to the provisions of this Act, the costs of and incident to all proceedings in the High Court shall be in the discretion of the Court; but nothing herein contained shall deprive a trustee, mortgagee, or other person of any right to costs out of a particular estate or fund to which he would be entitled according to the rules hitherto acted upon in Courts of Equity.

New Trials and Appeals.

48. *Restrictions on new trials.*] A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, unless in the opinion of the Court to which the application is made some substantial wrong or miscarriage has been thereby occasioned in the trial of the action; and if it appear to such Court that such wrong or miscarriage affects part only of the matter in controversy, the Court may give final judgment as to part thereof, and direct a new trial as to the other part only.

49. *Abolition of bills of exceptions and proceedings in error.*] Bills of exceptions and proceedings in error shall be abolished.

50. *Mode of appealing.*] All appeals to the Court of Appeal shall be by way of re-hearing, and shall be brought by notice of motion in a summary way, and no petition, case, or other formal proceeding other than such notice of motion shall be necessary. The appellant may by the notice of motion appeal from the whole or any part of any judgment or order, and the notice of motion shall state whether the whole or part only of such judgment or order is complained of, and in the latter case shall specify such part.

51. *Notice of appeal.*] The notice of appeal shall be served upon all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Court of Appeal may direct notice of the appeal to be served on all or any parties to the action or other proceeding, or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may seem just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties. Any notice of appeal may be amended at any time as to the Court of Appeal may seem fit.

52. *General power of Appeal Court.*] The Court of Appeal shall have all the powers and duties as to amendment and

otherwise of the Court of First Instance, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in court by affidavit, or by deposition taken before an examiner or commissioner. Such further evidence may be given without special leave upon interlocutory applications, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought. Upon appeals from a decree or judgment upon the merits, at the trial or hearing of any action or matter, such further evidence (save as aforesaid) shall be admitted on special grounds only, and not without special leave of the Court. The Court of Appeal shall have power to give any judgment and make any decree or order which ought to have been made, and to make such further or other order as the case may require. The powers aforesaid may be exercised by the said Court, notwithstanding that the notice of appeal may be that part only of the decision may be reversed or varied, and such powers may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision. The Court of Appeal shall have power to make such order as to the whole or any part of the costs of the appeal as may seem just.

53 *Regulations as to cross appeals.*] It shall not, under any circumstances, be necessary for a respondent to give notice of motion by way of cross appeal, but if a respondent intends, upon the hearing of the appeal, to contend that the decision of the Court below should be varied or altered, he shall, within such time as may be prescribed by Rules of Court or by special order, give notice of such intention to any parties who may be affected by such contention. The omission to give such notice shall not diminish the powers by this Act conferred upon the Court of Appeal, but may, in the discretion of the Court, be ground for an adjournment of the appeal, or for a special order as to costs.

54 *Mode of bringing evidence before Court of Appeal.*] When any question of fact is involved in an appeal, the evidence taken in the Court below shall be brought before the Court of Appeal in such manner as may be prescribed by Rules of Court or by special order.

55 *Power for Court to refer to notes, &c.*] If, upon the hearing of an appeal, a question arise as to the ruling or direction of the Judge to a jury or assessors, the Court shall have regard to verified notes or other evidence and to such other materials as the Court may deem expedient.

56 *Want of appeal from interlocutory order not to limit powers of Court of Appeal.*] No interlocutory order or rule from which there has been no appeal shall operate so as to bar or prejudice the Court of Appeal from giving such decision upon the appeal as may seem just.

57 *Limit of time in appeals.*] No appeal from any interlocutory order shall, except by special leave of the Court of Appeal, be brought after the expiration of twenty-one days, and no other appeal shall, except by such leave, be brought after the expiration of one year. The said respective periods shall be calculated from the time at which the judgment or order is signed, entered, or otherwise perfected, or, in the case of the refusal of an application, from the date of such refusal, or from such time as may be prescribed by Rules of Court. Such deposit or other security for the costs to be occasioned by any appeal shall be made or given as may be prescribed by Rules of Court, or directed under special circumstances by the Court of Appeal.

58 *Appeal not to stay proceedings.*] An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from, except so far as the Court appealed from, or any Judge thereof, or the Court of Appeal, may so order; and no intermediate act or proceeding shall be invalidated, except so far as the Court appealed from may direct.

CAP. LXVII.

An Act to regulate the Employment of Children in Agriculture.
[5th August, 1873.]

1. *Short title.*2. *Extent of Act.*3. *Commencement of Act. (January 1, 1875.)*4. *Interpretation.*

5. *Prohibition of employment of children under eight years in agricultural work.*

6. *Restrictions on employment of children above eight years in agricultural work. Certificate of age and school attendances to be shown by parent to employer.*

7. *Certificate of school attendances to be given on application of parent.*

8. *Power to suspend temporarily restrictive provisions of Act.*

9. *Power of court (Justice of Peace) to exempt from school attendances in case of illness, &c.*

10. *Saving for children employed in harvest or unable to attend school, or employed when school is closed.*

11. *Cases in which provisions of Act shall not apply.*

12. *Persons employing children in contravention of Act deemed guilty of offence against Act.*

13. *Penalty for forging, &c., certificate.*

14. *Penalty on offences against Act.*

15. *Summary proceedings for offences against Act.*

16. *Repeal of sect. 4 of 30 & 31 Vict. c. 130.*

CAP. LXVIII.

An Act for extending the Period of Service in the Militia; and for other purposes.
[5th August, 1873.]

CAP. LXIX.

An Act to provide for proceeding on Petitions of Right in the Courts of Law and Equity in Ireland.
[5th August, 1873.]

CAP. LXX.

An Act to amend the Law relating to the appointment of Revising Barristers and the holding of Revision Courts.
[5th August, 1873.]

Whereas it is expedient to amend the law relating to the appointment of revising barristers and the holding of revision courts:

Be it enacted, &c., as follows:

1. *Short title.*] This Act may be cited as "The Revising Barristers Act, 1873."

2. *Repeal of Acts in schedule.*] The Acts specified in the schedule to this Act are hereby repealed from and after the passing of this Act to the extent specified in the third column of the schedule, without prejudice to anything done or suffered before the passing of this Act under the enactments hereby repealed.

3. *Power to Queen in Council to alter number of revising barristers.*] Her Majesty by Order in Council may vary from time to time, either by way of increase or decrease, the number of revising barristers to be appointed for any counties, cities, boroughs, or places in pursuance of section twenty-eight of the Parliamentary Electors Registration Act, 1843, and the number fixed by such Order shall be substituted for the number fixed by the said section, or by any previous Order in Council made under this or any other Act.

4. *Evening sittings of revision court.*] Every barrister appointed to revise the lists for a parliamentary borough containing, according to the last census for the time being, more than ten thousand inhabitants, shall hold at least one evening sitting of his court in such borough.

An evening sitting shall commence not earlier than six nor later than seven o'clock in the evening, and shall be of such duration as, in the opinion of the revising barrister, shall be reasonable.

Special notice or notices of an evening sitting or of evening sittings to be held in a borough shall be published by the town clerk in such manner as the revising barrister may direct.

5. *Adjournment of court by revising barrister.*] If a revising barrister is prevented by illness from holding a court at any place in a county or borough at the appointed time, he may, by notice in writing addressed to the clerk of the peace of such county, or town clerk of such borough, adjourn such court to some other day named in the notice, and the court shall be adjourned accordingly; and the clerk of the peace or town clerk on the receipt of such notice shall forthwith give public notice of such adjournment, in like manner as he gives notice of the time at which the revising barrister will hold his court.

A formal adjournment of the court of a revising barrister from day to day shall not be necessary, but the revision shall be deemed to be adjourned, and may be continued from day to day until concluded: Provided that no court shall be adjourned under this section to any day later than the thirty-first day of October in any year.

6. *Interpretation.*] In this Act—

The term "The Parliamentary Electors Registration Act, 1843," means the Act of the session of the sixth and seventh years of the reign of her present Majesty, chapter eighteen, intituled "An Act to amend the law for the registration of

persons entitled to vote and to define certain rights of voting, and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales: "

The terms "parliamentary borough" and "borough" mean a city or borough as defined by the Parliamentary Electors Registration Act, 1843:

The other terms used in this Act have the same meaning as in the Parliamentary Electors Registration Act, 1843 and the enactments amending the same.

7. *Extent of Act.*] This Act shall not extend to Scotland or Ireland.

SCHEDULE.

26 & 27 Vict. c. 122.

An Act to enable Her Majesty in Council to make alterations in the circuits of the Judges.

Section four.

35 & 36 Vict. c. 84.

An Act to amend the Law relating to the appointment of Revising Barristers.

Section three.

CAP. LXXI.

An Act to amend the Law relating to Salmon Fisheries in England and Wales. [5th August, 1873.]

CAP. LXXII.

An Act for the Amendment of the Defence Acts, 1842 and 1860. [5th August, 1873.]

CAP. LXXIII.

An Act to amend so much of section four of the Public Health Act, 1872, as relates to the Cambridge Commissioners. [5th August, 1873.]

CAP. LXXIV.

An Act to amend the Laws relating to the Pay of the Royal Irish Constabulary. [5th August, 1873.]

CAP. LXXV.

An Act to continue various expiring Laws. [5th August, 1873.]

CAP. LXXVI.

An Act to make further Provision for the Regulation of Railways. [5th August, 1873.]

1. *Definition of Railway Regulation Acts.*
2. *Definition of Summary Jurisdiction Acts.*
3. *Definition of Board of Trade.*
4. *Returns to be made to the Board of Trade by railway companies in forms specified in schedules to Act.*
5. *Returns to be made by coroners.*
6. *Amendment of sect. 6 of the Railway Regulation Act, 1842.*

CAP. LXXVII.

An Act to provide for the establishment of a Royal Naval Artillery Volunteer Force. [5th August, 1873.]

CAP. LXXVIII.

An Act to amend the Sanitary Act, 1866, so far as the same relates to the Nuisance Authorities of Ports in Ireland. [5th August, 1873.]

CAP. LXXIX.

An Act to apply a sum out of the Consolidated Fund to the service of the year ending the thirty-first day of March one thousand eight hundred and seventy-four, and to appropriate the Supplies granted in this Session of Parliament. [5th August, 1873.]

CAP. LXXX.

An Act to enable Her Majesty to provide for the Establishment of His Royal Highness the Duke of Edinburgh and Her Imperial Highness the Grand Duchess Marie Alexandrovna of Russia, and to settle an annuity on Her Imperial Highness. [5th August, 1873.]

CAP. LXXXI.

An Act to authorise the division of the Wapentake of Langbaurgh in the county of York into Districts for the purpose of Coroners' jurisdiction, and the appointment of additional Coroners for the said Wapentake. [5th August, 1873.]

CAP. LXXXII.

An Act to amend the Law relating to Small Penalties in Ireland. [5th August, 1873.]

CAP. LXXXIII.

An Act for explaining the Telegraph Acts, 1868 to 1871, and for enabling a further Sum to be raised for the purposes of the said Acts and of the Pensions Commutation Act, 1872. [5th August, 1873.]

CAP. LXXXIV.

An Act to explain the Militia Pay Acts, 1868 and 1869, and to facilitate the sale of property held for Militia purposes. [5th August, 1873.]

CAP. LXXXV.

An Act to amend the Merchant Shipping Acts. [5th August, 1873.]

Be it enacted, &c., as follows:

Preliminary.

1. *Short title.*] This Act may be cited as the Merchant Shipping Act, 1873.

2. *Construction of Act.*] This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1873.

Registry (Part II. of Merchant Shipping Act, 1854).

3. *Particulars to be marked on British ships.*] Every British ship registered after the passing of this Act shall before registry, and every British ship registered before the passing of this Act shall, on or before the first day of January one thousand eight hundred and seventy-four, be permanently and conspicuously marked to the satisfaction of the Board of Trade, as follows:

Her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth:

Her official number and the number denoting her registered tonnage shall be cut in on her main beam:

A scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby. Such letters or figures shall be marked by being cut in and

painted white or yellow on a dark ground, or in such other way as the Board of Trade may from time to time approve.

The Board of Trade may, however, exempt any class of ships from the requirements of this section or any of them.

If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.

The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Acts, 1854 to 1873.

Any owner or master of a British ship who neglects to cause his ship to be marked as aforesaid, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds, and any officer of customs on receipt of a certificate from a surveyor or inspector of the Board of Trade that a ship is insufficiently or inaccurately marked may detain the same until the insufficiency or inaccuracy has been remedied.

Provided that no fishing vessel duly registered, lettered and numbered in pursuance of the Sea Fisheries Act, 1863, shall be required to have her name and port of registry marked under this section.

Provided also, that if any registered British ship is not within a port of the United Kingdom at any time before the first day of January one thousand eight hundred and seventy-four, she shall be marked as by this section required within one month after her next return to a British port of registry subsequent to that date.

4. *Particulars to be entered in record of draught of water.* The record of the draught of water of any sea-going ship required under section five of the Merchant Shipping Act, 1871, shall, in addition to the particulars thereby required, specify the extent of her clear side in feet and inches.

The term "clear side" means the height from the water to the upper side of the plank of the deck from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

Every master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record, and any master who fails so to do, or impedes or suffers anyone under his control to impede any person so appointed in the execution of his duty, shall for each offence incur a penalty not exceeding five pounds.

5. *Rules as to names of foreign ships placed on British register.* Where a foreign ship, not having at any previous time been registered as a British ship, becomes a British ship, no person shall apply to register, and no registrar shall knowingly register such ship, except by the name which she bore as a foreign ship immediately before becoming a British ship, unless with the permission of the Board of Trade granted in manner directed by section six of the Merchant Shipping Act, 1871.

Any person who acts or suffers any person under his control to act in contravention of this section shall for each offence incur a penalty not exceeding one hundred pounds.

6. *Restrictions on re-registration of abandoned ships.* Where a ship has ceased to be registered as a British ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a British ship, such ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by one of the surveyors appointed by the Board of Trade and certified by him to be seaworthy.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854).

7. *Agreements with seamen.* Any agreement with a seaman made under section one hundred and forty-nine of the Merchant Shipping Act, 1854, may, instead of stating

the nature and duration of the intended voyage or engagement as by that section required, state the maximum period of the voyage or engagement, and the places or parts of the world (if any) to which the voyage or engagement is not to extend.

8. *Agreements with fishermen.* The owner or master of any British vessel engaged in fishing off the coast of the United Kingdom may enter into an agreement with any person employed on such vessel that such person shall be remunerated wholly by a share in the profit of the fishing adventure.

Every such agreement shall be in writing or in print, or partly in writing and partly in print, and shall be signed by the contracting parties in the presence of a superintendent or deputy superintendent of a mercantile marine office.

The superintendent or deputy superintendent shall, before such agreement is signed, read and (if necessary) explain the same to the contracting parties, and shall attest the signature of the agreement, and certify that it has been read to and agreed to by the contracting parties.

Any such agreement, if made in the manner by this section required, shall be valid and binding on all the contracting parties, notwithstanding anything contained in section one hundred and eighty-two of the Merchant Shipping Act, 1854.

9. *Compensation to seamen for unnecessary detention on charge of desertion.* If a seaman or apprentice belonging to any ship is detained on a charge of desertion or any kindred offence, and if upon a survey of the ship being made under section seven of the Merchant Shipping Act, 1871, it is proved that she is not in a fit condition to proceed to sea, or that her accommodation is insufficient, the owner or master of the ship shall be liable to pay to such seaman or apprentice such compensation for his detention as the court having cognizance of the proceedings may award.

10. *Power for Board of Trade to establish mercantile marine offices and to hold examinations at certain ports.* In any case where the business of a mercantile marine office is conducted otherwise than under a local marine board, the Board of Trade may, if they think fit, instead of conducting such business at a custom house or otherwise, establish a mercantile marine office, and for that purpose procure the requisite buildings and property, and from time to time appoint and remove all the requisite superintendents, deputies, clerks, and servants. They may also in the like case make all such provisions and exercise all such powers with respect to the holding of examinations for the purpose of granting certificates of competency as masters, mates, or engineers, to persons desirous of obtaining the same, as might have been made or exercised by a local marine board.

11. *Power for Her Majesty, by Order in Council, to apply certain provisions of Merchant Shipping Acts to foreign ships.* Whenever it has been made to appear to Her Majesty that the government of any foreign state is desirous that any of the provisions of the Merchant Shipping Acts, 1854 to 1873, relating to the engagement and discharge of seamen, shall apply to the ships of such state, Her Majesty may by Order in Council declare that such of the said provisions as are in such order specified, shall, subject to the limitations, if any, contained in the order, apply, and thereupon, so long as the order remains in force, such provisions shall apply, subject to the said limitations, to the ships of such state, and to the owners, masters, officers, and crews of such ships, when not within the jurisdiction of such state, in the same manner in all respects as if such ships were British ships.

It shall be lawful for Her Majesty from time to time by Order in Council to add to, alter, or repeal any order made under this section.

Safety and Prevention of Accidents (Part IV. of Merchant Shipping Act, 1854).

12. *Survey of ships suspected of being unworthy.* Where the Board of Trade have received a complaint or have reason to believe that any British ship is by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, they may, if they think fit, appoint some competent person or persons to survey such ship, and the equipments, machinery, and cargo thereof, and to report thereon to the Board.

Any person so appointed may, for the purposes of such

survey, require the unloading or removal of any cargo, ballast, or tackle, and shall have all the powers of an inspector appointed under the Merchant Shipping Act, 1854.

Any person who (having notice of the intention to hold such survey) wilfully does or causes to be done any act by which the person appointed to make such survey is prevented from or obstructed in ascertaining the condition of the ship, her equipments, machinery, and cargo, shall be liable to a penalty not exceeding fifty pounds.

The Board of Trade may, if they think fit, order that any ship be detained for the purpose of being surveyed under this section, and thereupon any officer of customs may detain such ship until her release be ordered either by the Board of Trade or by any court to which an appeal is given under this Act.

Upon the receipt of the report of the person making any such survey, the Board may, if in their opinion the ship cannot proceed to sea without serious danger to human life, make such further order as they may think requisite as to the detention of the ship or as to her release, either absolutely or upon the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Board may impose. They may also from time to time vary or add to such order.

A copy of any such order and of the report upon which it was founded, and also of any variation of or addition to such order, shall be delivered as soon as possible to the owner or master of the ship to which it relates.

When a ship has been detained under this section she shall not be released by reason of her British register having been closed.

13. *Costs of survey.* [If upon the survey of a ship under this Act she is reported to have been at the time of the survey, having regard to the nature of the service for which she was then intended, unfit to proceed to sea without serious danger to human life, the expenses incurred by the Board of Trade in respect of the survey shall be paid by the owner of the ship to the Board of Trade, and shall, without prejudice to any other remedy, be recoverable by them in the same manner as salvage is recoverable.

If upon such survey the ship is not reported to have been unfit to proceed to sea, having regard to the nature of the service for which she was intended, the Board of Trade shall be liable to pay compensation to any person for any loss or damage which he may have sustained by reason of the detention of the ship for the purpose of survey, or otherwise in respect of such survey.

Where a complaint has been made to the Board of Trade that a ship is not fit to proceed to sea, they may, if they think fit, before ordering a survey of the ship, require the complainant to give or provide such security as they may think sufficient for the payment of the costs and expenses which they may incur in respect of the survey of the ship and of the compensation which they may be rendered liable to pay for loss or damage caused by her detention for the purpose of such survey, or otherwise in respect of such survey.

Where a ship has been surveyed under this Act in consequence of a complaint made to the Board of Trade, if upon such survey being made it appears that such complaint was made without reasonable cause, the expenses incurred by the Board in respect of the survey of the ship and the amount, if any, which the Board may have been rendered liable to pay in respect of any loss or damage caused by her detention shall be recoverable by the Board from such complainant.

All moneys payable by the Board of Trade in respect or by reason of the survey or detention of a ship under this Act shall, subject to the right by this section provided of recovering such moneys from the complainant, be paid out of moneys to be provided by Parliament.

14. *Appeal from decision of Board of Trade.* [If the owner of any ship surveyed under this Act is dissatisfied with any order of the Board of Trade made upon such survey, he may apply to any of the following courts having jurisdiction in the place where such ship was surveyed, that is to say:—

In England, to any court having Admiralty jurisdiction:

In Ireland, to any court having jurisdiction under the Court of Admiralty (Ireland) Act, 1867:

In Scotland, to the court of the sheriff of the county.

The court may, upon such application, if they think fit, appoint one or more competent persons to survey the ship anew, and any surveyor so appointed shall have all the powers of the person by whom the original survey was made. Such survey anew shall, if so required by the Board of Trade or the shipowner, be made in the presence of any person or persons appointed by them respectively to attend at the survey.

The court to which such application is made may make such order as to the detention or release of the ship, as to the payment of any costs and damages which may have been occasioned by her detention, as to the payment of the expenses of the original survey, and of the survey anew, and otherwise as to the payment of any costs of and incident to the application, as to the court may seem just.

Where an application is made under this section to a county court, or in Ireland to a local court, the matter of the application shall be deemed to be an Admiralty cause within the meaning of the County Courts Admiralty Jurisdiction Act, 1868, and the Court of Admiralty (Ireland) Act, 1867.

15. *Power for Board of Trade to vary requirements as to boats.* [In the case of any ship surveyed under the fourth part of the Merchant Shipping Act, 1854, the Board of Trade may at the request of the owner authorise the reduction of the number and the variation of the dimensions of the boats required for the ship by section two hundred and ninety-two of that Act, and also the substitution of rafts or other appliances for saving life for any such boats, so nevertheless that the boats so reduced or varied and the rafts or other appliances so substituted be sufficient for the persons carried on board the ship.

Section two hundred and ninety-three of the said Act shall extend to any such rafts or appliances in the same manner as if they were boats.

16. *Duties of masters in case of collision.* [In every case of collision between two vessels, it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any), to stay by the other vessel until he has ascertained that she has no need of further assistance, and to render to the other vessel, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision; and also to give to the master or person in charge of the other vessel the name of his own vessel, and of her port of registry, or of the port or place to which she belongs, and also the names of the ports and places from which and to which she is bound.

If he fails so to do, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Every master or person in charge of a British vessel who fails, without reasonable cause, to render such assistance or give such information as aforesaid shall be deemed guilty of a misdemeanor, and if he is a certificated officer an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

17. *Liability for infringement of regulations in cases of collision.* [If in any case of collision it is proved to the court before which the case is tried that any of the regulations for preventing collision contained in or made under the Merchant Shipping Acts, 1854 to 1873, has been infringed, the ship by which such regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.

18. *Signals of distress.* [The signals specified in the first schedule to this Act shall be deemed to be signals of distress.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals, except in the case of a vessel being in distress, shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of such signal having been supposed to be a signal of distress, and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

19. *Signals for pilots.* [If a vessel requires the services of a

pilot, the signals to be used and displayed shall be those specified in the second schedule to this Act.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, shall incur a penalty not exceeding twenty pounds.

20. *Power to alter rules as to signals.* Her Majesty may from time to time by Order in Council repeal or alter the rules as to signals contained in the schedules to this Act, or make new rules in addition thereto, or in substitution therefor, and any alterations in or additions to such rules made in manner aforesaid shall be of the same force as the rules in the said schedules.

21. *Private signals.* Any shipowner who is desirous of using, for the purposes of a private code, any rockets, lights or other similar signals, may register such signals with the Board of Trade, and the Board shall give public notice of the signals so registered in such manner as they may think requisite for preventing such signals from being mistaken for signals of distress or signals for pilots.

The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.

When any signal has been so registered the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered shall not subject any person to any of the penalties or liabilities by this Act imposed upon persons using or displaying signals improperly.

22. *Notice to be given of apprehended loss of ship.* If the managing owner, or, in the event of there being no managing owner, the ship's husband of any British ship have reason, owing to the nonappearance of such ship, or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any), and the port to which she belongs, and if he neglect to do so within a reasonable time he shall incur a penalty not exceeding fifty pounds.

23. *Restrictions on carriage of dangerous goods.* If any person sends or attempts to send by, or not being the master or owner of the vessel carries or attempts to carry in any vessel, British or foreign, any dangerous goods; (that is to say,) aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of such goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel, he shall for every such offence incur a penalty not exceeding one hundred pounds: Provided that if such person show that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed ten pounds.

24. *Penalty for misdescription of dangerous goods.* If any person knowingly sends or attempts to send by, or carries or attempts to carry in any vessel, British or foreign, any dangerous goods or goods of a dangerous nature, under a false description, or falsely describes the sender or carrier thereof, he shall incur a penalty not exceeding five hundred pounds.

25. *Power to refuse to carry goods suspected of being dangerous.* The master or owner of any vessel, British or foreign, may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact.

26. *Power to throw overboard dangerous goods.* Where any dangerous goods as defined in this Act, or any goods which, in the judgment of the master or owner of the vessel, are of a dangerous nature, have been sent or brought aboard any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the vessel may cause such goods to be thrown overboard, together with any package or receptacle in

which they are contained; and neither the master nor the owner of the vessel shall, in respect of such throwing overboard, be subject to any liability, civil or criminal, in any court.

27. *Forfeiture of dangerous goods improperly sent.* Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, and where any such goods have been sent or carried, or attempted to be sent or carried, under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court having Admiralty jurisdiction to declare such goods, and any package or receptacle in which they are contained, to be and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

The court shall have and may exercise the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods have not committed any offence under the provisions of this Act relating to dangerous goods, and be not before the court, and have not notice of the proceedings, and notwithstanding that there be no evidence to show to whom the goods belong; nevertheless the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.

28. *Saving as to Dangerous Goods Acts.* The provisions of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for or in restraint of any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorise that any person be sued or prosecuted twice in the same matter.

Miscellaneous and Repeal.

29. *Her Majesty may, by order in Council, declare certain foreign ports ports of registry.* Where, in accordance with the Foreign Jurisdiction Acts, Her Majesty exercises jurisdiction within any port out of Her Majesty's dominions, it shall be lawful for Her Majesty, by Order in Council, to declare such port a port of registry (in this Act referred to as a foreign port of registry), and by the same or any subsequent Order in Council to declare the description of persons who are to be the registrars of British ships at such foreign port of registry, and to make regulations with respect to the registry of British ships thereat.

Upon such Order coming into operation it shall have effect as if it were enacted in the Merchant Shipping Acts, 1854 to 1873, and shall, subject to any exceptions and regulations contained in the Order, apply in the same manner, as near as may be, as if the port mentioned in the Order were an ordinary port of registry.

30. *Fees in respect of surveys, &c.* There shall be paid in respect of the several measurements, inspections, and surveys mentioned in the third schedule hereto such fees, not exceeding those specified in that behalf in the said schedule, as the Board of Trade may from time to time determine.

31. *Board of Trade may sue in name of its officers.* In any legal proceedings under the Merchant Shipping Acts, 1854 to 1873, the Board of Trade may take proceedings in the name of any of its officers.

32. *Certain sections not to come into force until 1st November, 1873.* The following sections of this Act, that is to say, sections sixteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, shall not come into operation until the first day of November one thousand eight hundred and seventy three.

33. *Repeal of certain sections of the Merchant Shipping Acts, 1862 and 1871; and of certain other sections of Merchant Shipping Acts, 1854, 1862, and 1871.* Section twenty-nine of the Merchant Shipping Act Amendment Act, 1862, and sections four and ten of the Merchant Shipping Act, 1871, are hereby repealed; and on and after the first day of November one thousand eight hundred and seventy three, sections three hundred and twenty-seven and three hundred and twenty-nine of the Merchant Shipping Act, 1854, sections thirty-three and thirty-eight of the Merchant Shipping Act Amendment Act, 1862, and section nine of the Merchant Shipping Act, 1871, shall be repealed; but this repeal shall not affect—

(1.) Anything duly done before this Act comes into operation.

- (2.) Any right acquired or liability accrued before this Act comes into operation;
 (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation; or,
 (4.) The institution of any legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULE I.

SIGNALS OF DISTRESS.

In the daytime.—The following signals, numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress in the daytime:—

1. A gun fired at intervals of about a minute;
2. The International Code signal of distress indicated by N C;
3. The distant signal, consisting of a square flag having either above or below it a ball, or anything resembling a ball.

At night.—The following signals, numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress at night:—

1. A gun fired at intervals of about a minute;
2. Flames on the ship (as from a burning tar barrel, oil barrel, &c.);
3. Rockets or shells, of any colour or description, fired one at a time, at short intervals.

SCHEDULE II.

SIGNALS TO BE MADE BY SHIPS WANTING A PILOT.

In the daytime.—The following signals, numbered 1 and 2, when used or displayed together or separately shall be deemed to be signals for a pilot in the daytime, viz.:—

1. To be hoisted at the fore, the Jack or other national colour usually worn by merchant ships, having round it a white border, one fifth of the breadth of the flag; or,
2. The International Code pilotage signal indicated by P T.

At night.—The following signals, numbered 1 and 2, when used or displayed together or separately shall be deemed to be signals for a pilot at night, viz.:—

1. The pyrotechnic light commonly known as a blue light every fifteen minutes; or,
2. A bright white light, flashed or shown at short or frequent intervals just above the bulwarks, for about a minute at a time.

SCHEDULE III.

TABLE OF MAXIMUM FEES TO BE PAID FOR THE MEASUREMENT, SURVEY, AND INSPECTION OF MERCHANT SHIPS.

1. For measurement of tonnage.

	£	s.	d.
For a ship under 50 tons register tonnage	1	0	0
" from 50 to 100 tons "	1	10	0
" " 100 to 200 " "	2	0	0
" " 200 to 500 " "	3	0	0
" " 500 to 800 " "	4	0	0
" " 800 to 1,200 " "	5	0	0
" " 1,200 to 2,000 " "	6	0	0
" " 2,000 to 3,000 " "	7	0	0
" " 3,000 to 4,000 " "	8	0	0
" " 4,000 to 5,000 " "	9	0	0
" " 5,000 and upwards " "	10	0	0

2. For the inspection of the berthing or sleeping accommodation of the crew.

	£	s.	d.
For each visit to the ship	0	10	0

Provided as follows:—

1. The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.
2. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

3. For the survey of emigrant ships.

	£	s.	d.
a. For an ordinary survey of the ship, and of her equipments, accommodation,			

stores, light, ventilation, sanitary arrangements, and medical stores	10	0	0
b. For a special survey	15	0	0
c. In respect of the medical examination of passengers and crew, for every hundred persons or fraction of a hundred persons examined	1	0	0

4. For the inspection of lights and fog signals.

	£	s.	d.
For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective	0	10	0

Provided that the aggregate amount of fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.

CAP. LXXXVI.

An Act to amend the Elementary Education Act (1870), and for other purposes connected therewith.

[5th August, 1873.]

Be it enacted, &c., as follows:

Preliminary.

1. *Short title.* 33 & 34 Vic. c. 75.] This Act may be cited as the Elementary Education Act, 1873; and this Act and the Elementary Education Act, 1870 (in this Act referred to as the principal Act), may be cited together as the Elementary Education Acts, 1870 and 1873.

2. *Construction of Act.*] This Act shall be construed as one with the principal Act, and the expression "this Act" in the principal Act shall be construed to include this Act.

Expenses of Education.

3. *Repeal of 18 & 19 Vic. c. 34 (Denison's Act), and substitution of other provisions.*] The Act of the session of the eighteenth and nineteenth years of the reign of Her present Majesty, chapter thirty-four, intituled "An Act to provide for the education of children in the receipt of outdoor relief," is hereby repealed as from the first day of January one thousand eight hundred and seventy-four; and in lieu thereof be it enacted as follows:

Where relief out of the workhouse is given by the guardians or their order by way of weekly or other continuing allowance to the parent of any child between five and thirteen years of age, or to any such child, it shall be a condition for the continuance of such relief that elementary education in reading, writing, and arithmetic shall (unless either there is some reasonable excuse within the meaning of section seventy-four of the principal Act, or the child has reached such standard of education as may from time to time be fixed for the purpose of this Act, so far as regards any district in which bye-laws under section seventy-four of the principal Act are in force by any such bye-law, and in any other district by a minute of the Education Department, or the child is employed in pursuance of a certificate under "The Agricultural Children Act, 1873," and is not attending school) be provided for such child, and the guardians shall give such further relief (if any) as may be necessary for that purpose.

Any such relief to a parent as above mentioned shall not be granted or refused on condition of the child attending any public elementary school other than such as may be selected by the parent.

The guardians shall not have power under this section to give any relief to a parent in order to enable such parent to pay more than the ordinary fee payable at the school which he selects, or more than one farthing for each attendance at such school, as defined by the minutes of the Education Department for the time being in force with respect to the Government grant.

All relief given by guardians under this section shall be paid out of their common fund, and where given by the guardians of any union in the metropolis as defined by the Metropolitan Poor Act, 1867, shall be deemed to be expenses repayable from the Metropolitan Common Poor Fund, within the meaning of section sixty-nine of that Act, and shall be repaid to such guardians accordingly.

4. *Power of Local Government Board as to relief and guardians.*] The Local Government Board shall have the like

powers with respect to guardians acting under and relief given in pursuance of this Act, as they have with respect to guardians acting under and relief given in pursuance of the Acts relating to the relief of the poor, and relief given in pursuance of this Act shall be deemed to be relief within the meaning of those Acts.

Elections.

5. *Confirmation of orders as to elections, &c.*] The orders and regulations of the Education Department mentioned in the first schedule to this Act, and all orders of the Education Department incorporating the said orders or regulations, so far as they so incorporate them, are hereby confirmed, and shall be deemed to have been duly made, and to have been within the powers contained in the principal Act, and shall continue in force until revoked or altered by any order made under the provisions of the principal Act as amended by this Act.

6. *Election of school board.*] The principal Act shall be construed as if there were substituted for the rules numbered one and three in the first part of the second schedule to the principal Act the rules in the second schedule to this Act, and the references in the principal Act to the second schedule to that Act, or the first part of that schedule shall be construed to refer to the said schedule or the first part thereof, with the provisions so substituted; but the said substitution shall not affect anything done before the passing of this Act.

7. *Overseers to allow inspection of rate books and otherwise assist returning officers.*] If any overseer or other officer has in his possession or under his control any rate book or other document which under the Elementary Education Acts, 1870 and 1873, or any order made thereunder, constitutes the register of persons entitled to vote at an election of a school board, or at the passing of a resolution for an application for a school board, and such overseer or other officer refuses or fails to comply with the directions of any order of the Education Department confirmed by this Act, or made in pursuance of the Elementary Education Acts, 1870 and 1873, with respect to the production, inspection, or copying of such book or document or the assisting any returning officer at any such election or passing of a resolution, such overseer or officer shall be liable, on summary conviction, to a penalty not exceeding five pounds for every day during which he so refuses or fails.

8. *Amendment of 33 & 34 Vict. c. 75, s. 91, as to corrupt practices at elections.*] Every person who under the principal Act is disqualified by a conviction for corrupt practices at any election from exercising any franchise for any term of years shall be also disqualified during the same term of years from being a member of a school board and from holding any municipal office.

9. *Questioning of election and resolution.*] The election of any member of a school board, and the passing of a resolution for an application for a school board under the Elementary Education Acts, 1870 and 1873, shall not be questioned except within six months after the declaration of the election of such member or of the passing of such resolution, whether such declaration was made before or after the passing of this Act.

Miscellaneous Amendments of 33 & 34 Vict. c. 75.

10. *Amendment of 33 & 34 Vict. c. 75, s. 57, as to loans.*] The principal Act and Acts referring thereto shall be construed as if, for section fifty-seven, which is repealed by this Act, there were substituted the following section:

Where a school board have incurred or require to incur any expense, either—

- (a.) in providing or enlarging a schoolhouse; or
- (b.) in paying off any debt charged on a schoolhouse provided by them, or on any land acquired by them by gift, transfer, purchase, or otherwise for the purposes of this Act; or
- (c.) in any works of improving or fitting up a school house which, in the opinion of the Education Department, ought by reason of the permanent character of such works to be spread over a term of years,

they may, with the consent of the Education Department, spread the payment over such number of years

not exceeding fifty, as may be sanctioned by the Education Department, and may, with the like consent, for that purpose borrow money on security of the school fund and local rate, and may charge that fund and the local rate with the payment of the principal and interest due in respect of the loan. They may, if they so agree with the mortgagee, pay the amount borrowed with the interest by equal annual instalments not exceeding fifty, and if they do not so agree they shall annually set aside one fiftieth of the sum borrowed as a sinking fund: Provided that no such consent of the Education Department shall be granted unless proof be given to their satisfaction that the additional school accommodation which it is proposed to supply is required in order to provide for the educational wants of the district:

For the purpose of such borrowing the clauses of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the Commissioners, shall be incorporated with this Act; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the school board which is borrowing shall be deemed to be the commissioners:

The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required under this section on the security of the school fund and local rate without requiring any further or other security, such loan to be repaid within such number of years not exceeding fifty, as may be recommended by the Education Department, and to bear interest at the rate of three and a half per cent. per annum.

The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act which would have been legal if the said substitution had been made shall be legal.

11. *Amendment of 33 & 34 Vict. c. 75, ss. 12, 40.*] The provisions of section twelve of the principal Act shall extend to authorise the Education Department, if they think fit, to form a united school district, and upon such union to cause a school board to be formed for such united school district, in like manner and under the like circumstances as it authorises them to cause a school board to be formed for any school district, without making the inquiry or publishing the notices required by the principal Act, but after such inquiry, public or other, and such notice as the Education Department think sufficient: Provided that a resolution in favour of union shall be passed in each district separately, and if a school board has been elected in any such district, by the school board.

12. *Union of detached parts of parishes for purposes of Act.*] Where any part of a parish is detached from the principal part of a parish, the Education Department may, with the consent of the Local Government Board, by order direct that each such part of the said parish shall, and the same shall accordingly, as from the date of the order or any later date specified in the order, be, for the purposes of the principal Act and this Act, a parish by itself, and section fifty-seven of the principal Act shall apply thereto in like manner as if such part of a parish were the part of a parish situate outside a borough.

The provisions of section fifty-six of the principal Act, with respect to raising a sum from any place which is part of a parish, shall, where necessary, apply to a part of a parish although under this section it is deemed to be a parish by itself.

13. *Power of school board to accept gifts for educational purposes.*] A school board shall be able and be deemed always to have been able to be constituted trustees for any educational endowment or charity for purposes connected with education, whether such endowment or charity was established before or after the passing of the principal Act, and to have and always to have had power to accept any real or personal property given to them as an educational endowment or upon trust for any purposes connected with education: Provided that—

- (1.) Nothing in this section shall enable a school board to be trustees for or accept any educational endowment, charity, or trust, the purposes of which are inconsistent with the principles on which the school board are required by section fourteen of the principal Act to conduct schools provided by them; and,

(2.) Every school connected with such endowment, charity, or trust shall be deemed to be a school provided by the school board, except that nothing in this section shall authorise the school board to expend any money out of the local rate for any purpose other than elementary education; and,

(3.) Nothing in this section shall affect the law of mortmain or the Act of the ninth year of the reign of King George the Second, chapter thirty-six.

14. *Amendment of 29 & 30 Vict. c. 118, s. 12, as applied to school boards.*] Where a school board exercises the powers of a prison authority under the Industrial Schools Act, 1866, not less than fourteen days, instead of not less than two months, previous notice shall be given of the intention of the school board to take into consideration the making of the contribution mentioned in section twelve of that Act.

15. *Amendment of 33 & 34 Vict. c. 75, s. 20.*] For the purpose of the purchase of land otherwise than by agreement under section twenty of the principal Act, the Act confirming an order of the Education Department for such purchase, together with the principal Act, shall be deemed to be the special Act.

16. *Valuation list in Metropolis.*] The principal Act shall be construed as if there were substituted for sub-section ten of section thirty-seven thereof the following words:

The school board shall apportion the amount required to be raised to meet the deficiency in the school fund among the different parts of the metropolis mentioned in the third column of the first schedule to this Act, in proportion to the rateable value of such parts, as shown by the valuation lists for the time being in force under the Valuation (Metropolis) Act, 1869, or any other Act for making valuation lists, or, where there is no such valuation list, in the same proportion and according to the same basis in and according to which the then last rate made by the Metropolitan Board of Works was assessed.

The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act which would have been legal if the said substitution had been made shall be legal.

17. *Making up and examination of accounts.*] The accounts of a school board shall be made up and balanced to the twenty-fifth day of March and twenty-ninth day of September in every year, or, if so directed by regulation under this Act, annually to one of those days in every year.

The accounts shall be examined by the school board and signed by the chairman within such time, not exceeding two months after the day to which they are made up, as may be fixed by a regulation under this Act.

As soon as practicable after the accounts are so signed they shall be audited.

18. *Amendment of 33 & 34 Vict. c. 75, s. 60.*] The principal Act shall be construed as if for sub-section nine of section sixty thereof there were substituted the following words:

Subject to the provisions of this section, the Local Government Board may from time to time make such regulations as may be necessary respecting the form of keeping the accounts, the audit thereof, the mode of publishing the time and place of holding the audit, the time within which the accounts are to be examined by the school board and signed by the chairman, and (with the consent of the Education Department,) the school boards or class of school boards the accounts of which are to be made up only annually, and the day to which they are to be so made up in every year.

The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act which would have been legal if the said substitution had been made, shall be legal.

19. *Extension of 33 & 34 Vict. c. 75, s. 70, to returns.*] Where the Education Department have power under the principal Act to require any local authority to send to them a return, the Education Department, without requiring such local authority to make the return, shall have the same power of appointing a person or persons to make such return as they would have under section seventy of the principal Act if the local authority had been required to make and had failed to make such return.

20. *Notices for purposes of Elementary Education Acts.*] Notices and other matters required by the Elementary

Education Acts, 1870 and 1873, to be published shall, unless otherwise expressly provided, be published either by advertisement, and by affixing the same on the doors of churches and chapels, and other public places, or in such other manner as the Education Department may either generally or with respect to any particular district, place, or notice, or class of districts, places, or notices, by order determine, as being in their opinion sufficient for giving information to all persons interested; and all overseers, assistant overseers, and officers of guardians shall comply with the directions of the Education Department with respect to such notices, and any expenses incurred by them in carrying into effect this section may be paid as their expenses under the Acts relating to the relief of the poor.

Every person who wilfully tears down, injures, or defaces any notice affixed in pursuance of the Elementary Education Acts, 1870 and 1873, or any order of the Education Department made thereunder, shall be liable on summary conviction to a penalty not exceeding forty shillings.

21. *Amendment of 33 & 34 Vict. c. 75, 3rd. sch.d.*] The regulations in the third schedule to this Act shall be substituted for the regulations in the third schedule to the principal Act which are repealed by this Act, but such substitution shall not affect anything done before the passing of this Act.

22. *Returns by schools to school boards.*] In any school district in which a bye-law under section seventy-four of the principal Act is in force, the school board of such district may from time to time supply forms to any public elementary school for the purpose of obtaining reasonable information with respect to the attendance of children residing in their district who attend such school; and the managers of such school, if they fail to cause such forms to be truly filled up and returned in manner required by the school board, or to cause such information to be given as will enable the school board to ascertain whether a child resident within their district and attending that school attends the same in manner required by the said bye-law, shall cause to be produced to such member or officer of the school board or other person as may be duly authorised in that behalf by the school board at any reasonable time when required by him, the registers and other books and documents containing information with respect to the attendance of children at such school, and shall permit him to inspect and take copies of and extracts from the same.

If any difference arises between a school board and the managers of a public elementary school as to whether the information required by the said forms is or is not reasonable, such difference shall be referred to the Education Department, whose decision shall be final.

Legal Proceedings.

23. *Legal proceedings.*] All offences and penalties under the principal Act or this Act, or any bye-law under the principal Act, which may be prosecuted or recovered on summary conviction may be prosecuted and recovered in manner provided by the Summary Jurisdiction Acts.

The court of summary jurisdiction, when hearing and determining an information or complaint, shall be constituted either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

24. *Regulations as to legal proceedings.*] With respect to proceedings before a court of summary jurisdiction for offences and penalties under the principal Act, or this Act, or any bye-law under the principal Act, the following provisions shall have effect:

- (1.) The description of the offence in the words of the Act or bye-law, or as near thereto as may be, shall be sufficient in law:
- (2.) Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in the Act or bye-law, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived no proof in relation to the matters so specified or negatived shall be required on the part of the informant:

- (3) In any proceeding for an offence under a bye-law, the court may, instead of inflicting a penalty, make an order directing that the child shall attend school, and that if he fail so to do, the person on whom such order is made shall pay a penalty not exceeding the penalty to which he is liable for failing to comply with the bye-law :
- (4) Any justice may require by summons any parent or employer of a child, required by a bye-law to attend school, to produce the child before a court of summary jurisdiction, and any person failing, without reasonable excuse to the satisfaction of the court, to comply with such summons shall be liable to a penalty not exceeding twenty shillings :
- (5) A certificate purporting to be under the hand of the principal teacher of a public elementary school, stating that a child is or is not attending such school, or stating the particulars of the attendance of a child at such school, or stating that a child has been certified by one of Her Majesty's inspectors to have reached a particular standard of education, shall be evidence of the facts stated in such certificate :
- (6) Where a child is apparently of the age alleged for the purposes of the proceeding, it shall lie on the defendant to prove that the child is not of such age :
- (7) If a child is attending an elementary school which is not a public elementary school, it shall lie on the defendant to show that the school is efficient, and the court, in considering whether any elementary school is efficient, shall have regard to the age of the child and to the standard of education corresponding to such age prescribed by the minutes of the Education Department for the time being in force with respect to the parliamentary grant :
- (8) Where a school board are, by reason of the default of the managers or proprietor of an elementary school, unable to ascertain whether a child who is resident within the district of such school board and attends such school attends school in conformity with a bye-law made by such school board, it shall lie on the defendant to show that the child has attended school in conformity with the bye-law :
- (9) Any person may appear by any member of his family or any other person authorised by him in this behalf.

25. *Forgery of certificate, and giving false information.* Every person who forges or counterfeits any certificate which is by this Act made evidence of any matter, or gives or signs any such certificate which is to his knowledge false in any material particular, or, knowing any such certificate to be forged, counterfeit, or false, makes use thereof, shall be liable on summary conviction to imprisonment for a period not exceeding three months, with or without hard labour.

Definitions and Repeal.

26. *Schedules part of Act.* The schedules to this Act shall be of the same force as if they were enacted in the body of this Act.

27. *Interpretation.* In this Act—

"Guardians." The term "guardians" includes any body of persons performing the functions of guardians within the meaning of the Acts relating to the relief of the poor :

"Union." The term "union" means any union or incorporation of parishes under any general or local Act, and any single parish having guardians as defined by this Act under any general or local Act ;

"Common fund." The term "common fund" means, in the case of a union which comprises only one parish, the fund applicable to the relief of the poor of such parish :

"Summary Jurisdiction Acts." The term "the Summary Jurisdiction Acts" means the Act of the session

of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any Acts amending the same :

"Court of summary jurisdiction." The term "court of summary jurisdiction" means any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts.

28. *Repeal and savings.* The principal Act is hereby repealed, to the extent specified in the third column of the fourth schedule to this Act.

Provided that—

- (1) Any order or regulation of the Education Department made under any enactment hereby repealed shall continue in force as if it had been made under this Act :
- (2) Any school board elected under any enactment hereby repealed shall continue and be deemed to have been elected under this Act :
- (3) The repeal of any Act or enactment by this Act shall not—
 - (a.) Affect anything duly done or suffered under any such Act or enactment ; or
 - (b.) Affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any such Act or enactment, or bye-law ; or
 - (c.) Affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any such Act, enactment, or bye-law ; or
 - (d.) Affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid ; and any such investigation, legal proceeding and remedy may be carried on as if this Act had not passed.

FIRST SCHEDULE.

Orders and Regulations of the Education Department relating to Elections of and Applications for School Boards.

- 7th October 1870.—Order fixing the boundaries of the divisions of the metropolis, with the number of members to be elected by each division, and appointing the returning officer for the first election of the school board for London and his deputies.
- 27th October 1870.—Order regulating the first election of the school board for London.
- 27th October 1870.—General regulations for the first election of school boards in boroughs.
- 21st December 1870.—General regulations for the first election of school boards in parishes not situate within municipal boroughs, or within the Metropolis.
- 21st December 1870.—General regulations as to passing resolutions for application for school boards in parishes not situate within municipal boroughs or within the Metropolis.
- 6th January 1871.—Regulations for the first election of a school board for the district of the local board of Oxford.
- 15th March 1873.—General regulations as to the formation of united school districts.

SECOND SCHEDULE.

Rules respecting Election of Members of a School Board.

- (1.) The election of a school board shall be held at such time and in such manner and in accordance with such regulations as the Education Department may from time to time by order prescribe ; and the Education Department may by order appoint or direct the appointment and make regulations as to the duties, remuneration, and expenses of any officers requisite for the purpose of such election, and do and make regulations respecting all other necessary things preliminary or incidental to such election, and revoke or alter any

previous order, whether confirmed by or made in pursuance of this Act.

Provided as follows:

- (a) The candidates at every election shall be nominated in writing:
- (b) Any poll shall, so far as circumstances admit, be conducted in like manner in which the poll at a contested municipal election is directed by the Ballot Act, 1872, to be conducted; and, subject to any exceptions or modifications contained in any order of the Education Department made in pursuance of this Act, the Ballot Act, 1872, shall apply in the case of the election of a school board in like manner as if the provisions thereof were herein enacted with the substitution of "school board election" for "municipal election."
- (c) In a parish which is not situate in the city of London or in a borough, other than the borough of Oxford the book containing the last rate made for such parish more than one month previously to any date shall be the register of the ratepayers entitled to vote in such parish at that date; and every ratepayer whose name appears in such rate book shall be entitled to vote unless he is disqualified for voting, and no person shall be entitled to vote whose name does not so appear.
- (2.) Elections to fill casual vacancies in the Metropolis and elsewhere shall be held only on the day in the year appointed or prescribed for the election of members, unless the Education Department order an election to be held on some other

day, in pursuance of the rule numbered sixteen in the first part of the second schedule to the principal Act.

(3.) An Order made in pursuance of this schedule shall, save as otherwise provided by such order, apply to all school boards.

THIRD SCHEDULE.

Proceedings of School Board.

The following regulations shall be construed as part of the conditions mentioned in rule one in the third schedule to the principal Act; that is to say,

- (b.) Not less than one ordinary meeting shall be held in each month, but where the board ordinarily meet more than once in every month, they may, by resolution passed by a majority of not less than two thirds of the members present and voting on the question, resolve not to have an ordinary meeting in the months of August and September, or one of such months. One meeting shall be held as soon as possible after every triennial election of members:
- (f.) The names of the members present, and in the case of a division the names of those voting upon each question shall be recorded:
- (g.) No business involving the appointment or dismissal of a teacher, any new expense, or any payment (except the ordinary periodical payments), or any business which under this Act requires the consent of the Education Department, shall be transacted unless notice in writing of such business has been sent to every member four days at least before the meeting.

FOURTH SCHEDULE.

Act Repealed.

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Short Title.	Extent of Repeal.
34 & 35 Vict. c. 75.	The Elementary Education Act, 1870.	The sub-section numbered ten in section thirty-seven; section fifty-seven; section fifty-nine; the sub-section numbered nine in section sixty; sections eighty and eighty-nine; section ninety, from "knowingly personate" to "voting in any such election or;" the rules numbered one and three in the first part of the second schedule; so much of the rule numbered six in the third part of the second schedule as relates to fixing a day for a casual election, and the conditions in rule one of the third schedule marked (b.) (f.) and (g.).

CAP. LXXXVII.

An Act to continue and amend the Endowed Schools Act, 1869. [5th August, 1873.]

Be it enacted, &c., as follows:

1. *Construction of Act and short title.* This Act shall be construed as one with the Endowed Schools Act, 1869 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Endowed Schools Acts, 1869 and 1873, and this Act may be cited as the Endowed Schools Act, 1873.

2. *Commencement of Act.* This Act shall come into operation on the first day of September one thousand eight hundred and seventy-three, which day is in this Act referred to as the commencement of this Act.

3. *Exception of elementary schools from 32 & 33 Vict. c. 56, and application thereto of 33 & 34 Vict. c. 75, s. 75.* Where an endowed school, not being a grammar school as defined by the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter seventy-seven, or a department of such a grammar school, is at the commencement of this Act an elementary school within the meaning of the Elementary Education Act, 1870, and the gross average annual income of the aggregate educational endowments of such

school during the three years next before such commencement did not exceed one hundred pounds, in such case after the commencement of this Act nothing in the principal Act shall apply to such school or the endowments thereof, and section seventy-five of the Elementary Education Act, 1870, shall apply to such school and the endowments thereof in like manner as if it were a school which, at the commencement of the principal Act, was in receipt of an annual parliamentary grant, and schemes may accordingly be framed, submitted, and approved under the said section with reference to such school and endowments.

Provided, that nothing in this section shall prevent the Commissioners from making, on the application of the governing body of an endowment of which part only is an educational endowment to which this section applies, a scheme dealing, in pursuance of the principal Act, with the part of such endowment applicable or applied to other charitable uses, and in such case the scheme may deal with the endowed school and endowment thereof in like manner as if this section had not been enacted. The governing body of every school to which this section applies may, if they think fit, charge such fees to the scholars as may from time to time be approved by the Committee of Council on Education, and shall permit the school to be inspected and the scholars therein to be examined by one of Her Majesty's Inspectors of Schools at such times and in such manner as the

Committee of Council on Education may from time to time direct.

The certificate of the Charity Commissioners for England and Wales that a school is or is not a school to which this section applies shall be conclusive evidence of the fact for the purposes of the principal Act and this section.

4. *Extension of Endowed Schools Acts to endowments, &c., vested in Her Majesty in right of the Crown or Duchy of Lancaster.*] Where any endowment, or any right of holding or any power of government or of management over any endowment, or any power of appointing officers, teachers, exhibitors, or others, either in any endowed school or with emoluments out of any endowment, is vested in Her Majesty in right of her Crown or of the Duchy of Lancaster, the Endowed Schools Acts, 1869 and 1873, shall extend to such endowment, right, or power; and the term "governing body" in those Acts shall be deemed to include Her Majesty:

Provided that—

- (1.) Any scheme with respect to such endowment, right, or power shall not be approved by the Committee of Council on Education unless Her Majesty assent to such scheme;
- (2.) All notices and documents required to be served on or sent to a governing body for the purposes of the Endowed School Acts, 1869 and 1873, may be served on or sent to the Lord Chancellor or the Chancellor of the Duchy of Lancaster, as the case may require;
- (3.) With the consent of Her Majesty, a scheme may deal with any such right or power without saving or making due compensation therefor;
- (4.) Any assent or consent of Her Majesty required for the purpose of the Endowed Schools Acts, 1869 and 1873, may be signified by Her Majesty's Sign Manual, countersigned by the Lord Chancellor or by the Chancellor of the Duchy of Lancaster, as the case may require.

5. *Amendment of 32 & 33 Vict. c. 56, s. 11.*] It shall be the duty of the Commissioners in every scheme to have the same regard to the educational interests of persons in a particular class in life as they are by section eleven of the principal Act required to have to the educational interests of any particular class of persons.

6. *Amendment of 32 & 33 Vict. c. 56, s. 17, as to holders of office being retained on governing body.*] Where under the express terms of the original instrument of foundation of any endowed school or educational endowment, the holder of any particular office is a member of the governing body of the school or endowment, nothing in section seventeen of the principal Act shall be deemed to prevent the holder for the time being of such office from being retained as a member of the governing body of such school or endowment.

7. *Extension of 32 & 33 Vict. c. 56, s. 19, as to schools excepted from the provisions as to religion.*] A scheme relating to any educational endowment originally given to charitable uses since the passing of the Act of the first year of the reign of William and Mary, chapter eighteen (commonly called the Toleration Act), if by the express terms of the original instrument of foundation, or of the statutes or regulations made by the founder, or under his authority in his life time, or within fifty years after his death (which terms have been observed down to the commencement of the principal Act), it is required that the majority of the members of the governing body or that the majority of the persons electing the governing body of such endowment, or that the principal teacher employed in the school, or that the scholars educated by the endowment, shall be members of a particular church, sect, or denomination, shall be excepted from the provisions of the principal Act mentioned in section nineteen of the principal Act in like manner as a scheme mentioned in that section, and that section shall be construed as if a scheme relating to such an educational endowment as is above in this section mentioned were a scheme relating to an educational endowment mentioned in sub-section two of the said section.

8. *Amendment of 32 & 33 Vict. c. 56, s. 25, as to new endowment mixed with old buildings.*] Whereas by section twenty-five of the principal Act it is enacted as follows: "Where an endowment or part of an endowment originally given to charitable uses less than fifty years before the

commencement of this Act has, by reason of having been spent on school buildings or teachers residences, or playground or gardens attached to such buildings or residences, become so mixed with an old endowment given more than fifty years before the passing of this Act, that in the opinion of the Commissioners (subject to appeal to Her Majesty in Council) it cannot conveniently be separated from such old endowment, then the whole endowment shall for the purposes of this Act be deemed to be an endowment originally given to charitable uses more than fifty years before the commencement of this Act," and it is expedient to amend the said section: Be it therefore enacted, that—Where it appears to the Commissioners (subject to appeal to Her Majesty in Council) that the endowment originally given less than fifty years before the commencement of the principal Act is in value not less than the old endowment and was given under the belief that the old endowment was attached to some particular church, sect, or denomination, a scheme relating to such endowment shall provide for the giving of religious instruction to the scholars belonging to such church, sect, or denomination.

9. *Scheme as to endowments in which schools under 31 & 32 Vict. c. 118, are interested.*] Where two or more schools are jointly interested in an educational endowment, and one of such schools is a school mentioned in section three of "The Public Schools Act, 1868," the Commissioners shall not, without the consent of the special Commissioners for the time being under "The Public Schools Act, 1868," deal by any scheme with the interest of such last-mentioned school in the endowment, but, with the consent of those Commissioners to the dealing with such interest, may, by a scheme under the principal Act, deal with such interest as well as with all other interests in such endowment.

10. *Explanation of 32 & 33 Vict. c. 56, s. 28, as to alteration of schemes.*] A provision inserted in pursuance of section twenty-eight of the principal Act in any scheme, whether made before or after the passing of this Act, shall not be deemed to give the Charity Commissioners for England and Wales any power to alter any portions of such scheme except by a scheme established in pursuance of the Acts for the time being in force relating to such Charity Commissioners, or any of those Acts, and upon the same application, and after the same procedure and notices, and subject to the same right of appeal as a scheme established under those Acts by the Charity Commissioners in the exercise of their ordinary jurisdiction.

11. *Alteration of religious instruction.*] Where a scheme under the principal Act gives the governing body of any endowed school power to make regulations respecting the religious instruction given at such school, the scheme shall also provide for any alteration in such regulations not taking effect until the expiration of not less than one year after notice of the making of the alteration is given.

12. *Amendment of 32 & 33 Vict. c. 56, ss. 34 to 36, as to time for objections to schemes.*] Whereas by section thirty-four of the principal Act it is provided as follows: "During three months after the first publication of the draft of a scheme the Commissioners shall receive any objections or suggestions made to them in writing respecting such scheme, and shall receive any alternative scheme submitted to them by the governing body of any endowment to which the scheme of the Commissioners relates;" and it is expedient to reduce the said period of three months to two months:

Be it therefore enacted, that—

"Two months" shall be substituted for "three months" in the said section, and all references in the principal Act to the said three months shall be construed to refer to the said two months.

13. *Amendment of 32 & 33 Vict. c. 56, s. 37, as to approval of Committee of Council on Education to schemes.*] The Committee of Council on Education as soon as a scheme is submitted to them shall, before approving the same, cause the scheme to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that during one month after the first publication of such notice the Committee of Council on Education will receive any objections or suggestions made to them in writing respecting such scheme.

After the expiration of the said month the Committee of

Council on Education may, if they think fit, approve the scheme or may remit the scheme, with such declaration as the nature of the case seems to them to require, to the Commissioners; and section forty of the principal Act, as to the proceedings where a scheme is remitted with a declaration, shall in such case apply.

The Committee of Council on Education as soon as they approve a scheme shall forthwith cause the scheme so approved to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that unless within two months after the publication of the scheme when approved a petition is presented in pursuance of the principal Act to Her Majesty in Council against the scheme, or such petition as in this section mentioned is presented to the Committee of Council on Education, such scheme may be approved by Her Majesty without being laid before Parliament.

During the said two months a petition praying that the scheme may be laid before Parliament may be presented to the Committee of Council on Education by the governing body of the endowment to which the scheme relates, or by the council of any municipal borough directly affected by the scheme, or by any inhabitant ratepayers (not less than twenty) of any municipal borough or place directly affected by the scheme.

14. *Amendment of 32 & 33 Vict. c. 56, s. 39, as to appeal to Queen in Council.* Whereas by section thirty-nine of the principal Act it is provided that Her Majesty may by Order in Council refer any petition to Her Majesty in Council for the consideration and advice of five members at the least of her Privy Council, of whom two, not including the Lord President, shall be members of the Judicial Committee, and it is expedient to provide that such petition should be heard by persons of legal experience: Be it therefore enacted, that—Every such petition to Her Majesty in Council in pursuance of section thirty-nine of the principal Act shall be referred to the Judicial Committee of Her Majesty's Privy Council in like manner as if it were an appeal from a court from which an appeal lies to Her Majesty in Council, and the Judicial Committee shall hear and deal with such petitions in like manner as such appeals, and shall have the same power with respect to the costs of parties to the petition and otherwise as they have with respect to any such appeal, and shall make to Her Majesty a report or recommendation thereon (the nature of which shall be stated in open court) in like manner as in the case of any such appeal.

Any power by the Supreme Court of Judicature Act, 1873, conferred on Her Majesty of directing that appeals which ought to be heard by the Judicial Committee shall be heard by the appellate branch of such Court shall, if Her Majesty in Council thinks fit so to direct, apply to petitions presented in pursuance of the said section thirty-nine in like manner as if they were appeals, and if either an Order in Council relating to other appeals or any separate Order in Council direct that such petitions be referred for hearing to and be heard by the appellate branch of the said Court, the same shall be referred to and heard by that branch of the Court accordingly.

15. *Laying of schemes before Parliament, and approval of Her Majesty in Council.* If, at the expiration of the time for a petition to Her Majesty in Council against any scheme, no such petition has been presented, and no petition praying that the scheme be laid before Parliament has been presented in pursuance of this Act to the Committee of Council on Education, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme without the same being laid before Parliament.

If any such petition has been presented, the scheme shall be laid before both Houses of Parliament, and shall be so laid forthwith if Parliament is then sitting, after the expiration of the time for the presentation of a petition to Her Majesty in Council, or (if a petition is presented to Her Majesty in Council against the scheme) after any later date at which the petition is withdrawn, or Her Majesty in Council directs the scheme to be laid before Parliament, and if Parliament be not then sitting, shall be so laid within three weeks after the beginning of the next ensuing session of Parliament; and if such scheme has lain before Parliament for not less than two months during the same session, then, unless an address has been presented within such two months by one or other of the House of Parliament praying Her Majesty to withhold Her

consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme or any part thereof to which such address does not relate.

16. *Annual report.* The Commissioners shall make to the Committee of Council on Education in every year a report of their proceedings under the principal Act and this Act, and such report shall be laid before Parliament. Such report shall describe all schemes not laid before Parliament which have been approved by Her Majesty during the year for which such report is made.

17. *Continuance of powers of making schemes.* The power of making and approving a scheme under the principal Act as amended by this Act shall continue as respects unopposed schemes until thirty-first December one thousand eight hundred and seventy-four, and as respects schemes against which a petition shall have been presented to the Committee of Council on Education, as in this Act provided, until the fifteenth August one thousand eight hundred and seventy-four, and no longer.

18. *Graduate of any university of the United Kingdom, if otherwise fit, shall be held qualified where the statutes require the head master to be a graduate of Oxford or Cambridge.* Whenever according to the rules, regulations, statutes, trusts, or constitution of any school, being an endowed school within the meaning of "The Endowed Schools Act, 1869," and with regard to which the said Commissioners are thereby empowered to make a new scheme, the head master or any other master is required to be a graduate of some specified university or universities, a graduate of any university of the United Kingdom having the degree which would be a qualification if it had been granted by one of the said specified universities, shall in future, if otherwise qualified, be eligible as such head master, or other master.

19. *Application of Act to schemes laid before Parliament during present session.* Where a scheme has been laid before Parliament during the present session, but has not at the expiration of such session lain for forty days before Parliament, and no address has been presented by either House of Parliament praying Her Majesty to withhold her consent from such scheme or any part thereof, the Committee of Council on Education may, if they think fit, cause to be published and circulated, in such manner as they think sufficient for giving information to all persons interested, a notice stating that unless within two months after the first publication of the notice such petition as is in this section mentioned is presented to the Committee of Council on Education such scheme may be forthwith approved by Her Majesty.

During the said two months a petition praying that the scheme may lie before Parliament during two months as directed by this Act may be presented to the Committee of Council on Education by any governing body, council, or ratepayers, who would, if such scheme were approved by such Committee after the commencement of this Act, be authorised by this Act to present a petition praying that such scheme may be laid before Parliament.

If no such petition is presented within the said two months it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme in like manner as if it had lain for forty days before Parliament in accordance with the principal Act.

Any scheme to which this section applies and which is not approved by Her Majesty under this section shall continue to lie before Parliament, and the provisions of this Act shall apply in like manner as if such scheme had been laid before Parliament in pursuance of this Act.

20. *Repeal.* The principal Act is hereby repealed as from the commencement of this Act to the extent mentioned in the third column of the schedule to this Act: Provided, that this repeal shall not—

- (a.) Affect anything duly done or suffered under any enactment hereby repealed; or
- (b.) Affect any right, obligation, or liability acquired or incurred under any such enactment; or
- (c.) Affect any legal proceeding or remedy in respect of such right, obligation, or liability.

SCHEDULE.

A description or citation of a portion of an Act is inclusive of the words or other part first or last mentioned or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Title.	Extent of Repeal.
32 & 33 Vict. c. 56.	The Endowed Schools Act, 1869.	Section thirty-seven down to "all persons interested," section thirty-nine from "Her Majesty by Order in Council may refer any such petition," down to "information for obtaining a scheme," and section forty-one, except as regards schemes which have lain for forty days before Parliament before the commencement of this Act.

CAP. LXXXVIII.

An Act for consolidating with Amendments the Acts for carrying into effect Treaties for the more effectual Suppression of the Slave Trade, and for other purposes connected with the Slave Trade. [5th August, 1873.]

CAP. LXXXIX.

An Act to extend and amend the provisions of the Gas and Water Works Facilities Act, 1870.
[5th August, 1873.]

CAP. XC.

An Act to continue certain Turnpike Acts in Great Britain, to repeal certain other Turnpike Acts, and for other purposes connected therewith.

[5th August, 1873.]

CAP. XCI.

An Act for further promoting the Revision of the Statute Law by repealing certain Enactments which have ceased to be in force or have become unnecessary.

[5th August, 1873]

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